

# **CITY OF HAYWARD**

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)



## **Agenda**

**Thursday, November 8, 2018**

**7:00 PM**

**Council Chambers**

## **Planning Commission**

**MEMBERS OF THE AUDIENCE WISHING TO ADDRESS THE PLANNING COMMISSION**

Obtain a speaker's identification card, fill in the requested information, and give the card to the Commission Secretary. The Secretary will give the card to the Commission Chair who will call on you when the item in which you are interested is being considered. When your name is called, walk to the rostrum, state your name and address for the record and proceed with your comments. The Chair may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens for organization. Speakers are expected to honor the allotted time.

**CALL TO ORDER Pledge of Allegiance****ROLL CALL****PUBLIC COMMENTS**

*The PUBLIC COMMENTS section provides an opportunity to address the Planning Commission on items not listed on the agenda. The Commission welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Commission is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff for further action.*

**ACTION ITEMS**

*The Commission will permit comment as each item is called for Public Hearing. Please submit a speaker card to the Secretary if you wish to speak on a public hearing item.*

**PUBLIC HEARING****[PH 18-085](#)**

Appeal of Denial of a Proposed Temporary Concrete Recycling Facility at 24701 Clawiter Road (APN: 439-0020-002-03)  
Kimberly Douglas for Bay Area Concrete Recycling, LLC.  
(Applicant)/S & A Investment Holdings (Owner) Requiring an Administrative Use Permit Application 201801996. (Continued from October 11, 2018)

**Attachments:**

[Attachment I - Staff Report](#)

[Attachment II - Findings for Denial](#)

[Attachment III - Appeal Narrative](#)

[Attachment IV - Chronology](#)

[Attachment V - Plans](#)

[Attachment VI - Public Comments](#)

[Attachment VII - Notice of Violation](#)

[Attachment VIII - Documentation Businesses at Clawiter  
October 2018](#)

For agenda item No. 1, the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of the decision. If appealed, a public hearing will be scheduled before the City Council for final decision.

#### APPROVAL OF MINUTES

[MIN 18-145](#) Minutes of the Special Planning Commission Work Session Meeting of October 11, 2018

**Attachments:** [Attachment 1 Draft Special Minutes of October 11, 2018](#)

[MIN 18-146](#) Minutes of the Planning Commission Meeting of October 11, 2018

**Attachments:** [Attachment I Draft Minutes of October 11, 2018](#)

[MIN 18-147](#) Minutes of the Planning Commission Meeting of October 25, 2018

**Attachments:** [Attachment I Draft Minutes of October 25, 2018](#)

#### COMMISSION REPORTS

Oral Report on Planning and Zoning Matters

Commissioners' Announcements, Referrals

#### ADJOURNMENT

**NEXT MEETING, THURSDAY, DECEMBER 13, 2018, 7:00PM**

#### PLEASE TAKE NOTICE

*That if you file a lawsuit challenging any final decision on any public hearing item listed in this agenda, the issues in the lawsuit may be limited to the issues which were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.*

#### PLEASE TAKE FURTHER NOTICE

*That the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.*

*\*\*\*Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Permit Center, first floor at the above address. Copies of staff reports for agenda items are available from the Commission Secretary and on the City's website the Friday before the meeting.\*\*\**

*Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.*





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**File #:** PH 18-085

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**DATE:** November 8, 2018

**TO:** Planning Commission

**FROM:** Planning Manager

**SUBJECT**

Appeal of Denial of a Proposed Temporary Concrete Recycling Facility at 24701 Clawiter Road (APN: 439-0020-002-03) Kimberly Douglas for Bay Area Concrete Recycling, LLC. (Applicant)/S & A Investment Holdings (Owner) Requiring an Administrative Use Permit Application 201801996. (Continued from October 11, 2018)

**RECOMMENDATION**

That the Planning Commission deny the appeal and uphold staff's decision on denial of a Temporary Use Permit to continue the operation of an outdoor concrete recycling facility at the project site until such time that they receive approval of another Administrative Use Permit to operate a permanent concrete recycling facility at another location on Depot Road.

**SUMMARY**

Bay Area Concrete Recycling (BACR) is requesting an Administrative Use Permit to temporarily continue the operation of an outdoor concrete recycling facility at the project site until such time that they receive approval of another Administrative Use Permit to operate a permanent concrete recycling facility at another location on Depot Road.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Findings for Denial
Attachment III	Appeal Narrative
Attachment IV	Chronology
Attachment V	Plans
Attachment VI	Public Comments
Attachment VII	Notice of Violation
Attachment VIII	Documentation - Businesses at Clawiter - October 2018

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**File #:** PH 18-085

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## **SUBJECT**

Appeal of Denial of a Proposed Temporary Concrete Recycling Facility at 24701 Clawiter Road (APN: 439-0020-002-03) Kimberly Douglas for Bay Area Concrete Recycling, LLC. (Applicant)/S & A Investment Holdings (Owner) Requiring an Administrative Use Permit Application 201801996.

## **RECOMMENDATION**

That the Planning Commission reject the appeal and uphold staff's decision on denial of a Temporary Use Permit for a Concrete Recycling Center, based on the analysis set forth in this report and the attached Findings for Denial (Attachment II).

## **SUMMARY**

Bay Area Concrete Recycling (BACR) is requesting an Administrative Use Permit to temporarily continue the operation of an outdoor concrete recycling facility at the project site until such time that they receive approval of another Administrative Use Permit to operate a permanent concrete recycling facility at another location on Depot Road.

## **BACKGROUND**

In November 2012, Mr. Singh of Bay Area Concrete Recycling (BACR) applied for a Conditional Use Permit to operate an outdoor concrete recycling facility at the subject property but due to inactivity, the planning file was closed in August 2013. In November 2013, staff became aware, through Code Enforcement complaint, that BACR was operating an outdoor concrete recycling facility at the subject site. While staff had concerns with the proposed location on Clawiter Road, staff recommended the applicant look for another site that would be more suitable, particularly on Depot Road, where similar and more heavy industrial uses were located. Since 2013, BACR has continued to operate an outdoor concrete recycling facility illegally and has not obtained the necessary use permits or made the necessary site improvements to accommodate an outdoor concrete recycling use.

In May 2015, a business license was issued to Slurry Waste Solution, which was located on the subject parcel along the southern property line, between the existing warehouse structure and the rear property line. In September 2016, the City received another Code Enforcement complaint regarding the construction of an office space within the existing warehouse without any building permits. In April 2017, the applicant filed a building permit to subsequently legalize the office conversion and bring the existing bathroom on-site to ADA compliance. While an office use at the site would be permitted as an ancillary use, the Planning Division notified the applicant that they would be subject to Site Plan Review due to the overall

intensification of uses on the property and the lack of site improvements being proposed with each expansion. To date, the applicant has yet to apply for Site Plan Review and as such, no site or public improvements have been reviewed, approved or constructed.

On April 17, 2018, the applicant subsequently applied for an Administrative Use Permit to legalize and allow a continuing operation of the outdoor concrete recycling facility until their permanent facility on Depot Road is operational. Once deemed complete, staff denied the Administrative Use Permit on July 6, 2018 and the applicant later appealed that decision on July 23, 2018. The basis for that appeal is included as Attachment III and a more detailed chronology of the project timeline is included as Attachment IV.

Depot Road Concrete Recycling Facility: While continuing to illegally operate an outdoor concrete recycling facility at Clawiter Road, Mr. Singh applied for an Administrative Use Permit (PL-2014-0225) in April 2014 to operate an outdoor concrete recycling facility at 3890 and 3898 Depot Road, which is adjacent to the Russell City Energy Center (RCEC) and across the street from Cabot Business Park. At the time the application was filed, both RCEC and Cabot Business Park property owners expressed concerns about the environmental impacts from the proposed outdoor concrete recycling facility. The Russell City Energy Center was concerned about the health risk from exposure of silica and lime to their employees and the potential increase of dust and airborne particles, which could impact operations.<sup>1</sup> The property owners of Cabot Business Park also expressed concerns about the possible dust and airborne impacts of the proposed use and also cited visual impacts related to the operation of an outdoor recycling operation. After several modifications to the plans and the addition of several conditions to address potential environmental impacts, the Administrative Use Permit was approved in May 2015.

While BACR originally proposed using recycled water generated from the RCEC steam turbines, Russell City later informed BACR that the water from the turbines would not be available and the applicant would need to look elsewhere. Additionally, this was the period that the State was facing a severe drought (from 2012-2017) and the conditions of approval required the applicant use recycled water to mitigate the fugitive dust particles and site landscaping. Once notified, the applicant explored several other options for recycled water, including the tapping into the East Bay Discharge Line, which runs along the western property line; extending recycled water lines from the City Sewer Treatment Plant to the Depot Road site; and using slurry water from the Clawiter site and trucking it to the Depot Road site. Since none of these options were exercised or executed by the applicant, the previously approved use permit did expire. Currently, the City does not expect that the recycled water from the City's Sewage Treatment Plant will be available to the Depot Road site until the first quarter of 2020 however the infrastructure has been installed in Depot Road.

In addition to the use of recycled water, other issues have been identified since the project application was originally approved. In particular, the City's new Water Pollution Source Control Administrator expressed concerns that PCB (Polychlorinated Biphenyl) <sup>2</sup> may

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<sup>1</sup> OSHA Fact Sheet "OSHA's Respirable Crystalline Silica Standard for Construction. See website below:  
<https://www.osha.gov/Publications/OSHA3681.pdf>

inadvertently enter into the San Francisco Bay since the area proposed for concrete recycling remains unpaved and given the proximity to the Bay, PCB could leach into the groundwater and lead to contamination of Bay waters <sup>1</sup>. PCBs are known to cause cancer in animals and are probable human carcinogens. Buildings that were constructed or renovated from the 1950's through the 1970's may include building products manufactured with PCBs, which were common at that time. PCB production was since banned by the United States Congress in 1979 due to the public health and safety issues associated with these products.

When the project application was approved in 2015, the Condition of Approval allowed the City the ability to add additional conditions to ensure the protection of public peace, safety and general welfare, including any other conditions related to fugitive dust and associated environmental impacts. In this case, staff noted the possible impacts to public health and the potential environmental impacts to the San Francisco Bay and required the site be paved to better control water run-off and minimize groundwater contamination. During this period, the applicant proposed design changes to the concrete recycling facility. Specifically, the height of the raw material mound that acted to block fugitive dust from the Russell City Steam Turbines was proposed to be lowered and the 20-foot high crib wall which was originally approved would be replaced by a 5-foot high ultra-block wall. In addition, the approved sprinkler system located on the top of the mound would be replaced with a Dustboss system, which would have been mounted on top of several monopoles located towards the back of the mound. Because of the nature and extent of the proposed changes, staff determined that BACR would need to apply for a modification of their originally approved use permit and be subject to additional environmental review.

In September 2017, BACR indicated a desire to enclose the concrete recycling facility within an industrial building. On May 1, 2018, the original AUP expired. The applicant since filed a new Administrative Use Permit (201803003) on June 7, 2018 to operate an 94,500 square foot Indoor Concrete Recycling Facility at the Depot Road site. Currently, the application is under review and remains incomplete following a letter issued on July 11, 2018. As such, the Clawiter site remains in operation without any land use permits and the Depot Road site remains inactive and the application incomplete. Most recently, staff also was notified that the 3890 and 3898 Depot Road parcels are being used as a truck storage facility without any necessary land use approvals. In addition to the concrete recycling use, the truck storage facility requires an Administrative Use Permit and although the applicant has been informed about this requirement, the City has yet to receive an application for the Administrative Use Permit. A subsequent complaint was filed with the City's Code Enforcement Division on September 25, 2018 and is currently under investigation.

Air Resources Board and BAAQMD Permits: In August 2016, BACR applied for a Statewide Portable Equipment Registration (Application No. 38818) for Portable Crushing and Screening Equipment from the Air Resources Board. On January 10, 2017, the Air Board approved the Permit with several operating conditions (noted in "Statewide Portable Equipment Registration No. 173997"). Below are some of the conditions that were applied to the applicant, which include general, emission, operations and inspection requirements to minimize potential environmental impacts, including:

General Requirements:

- Conditions 6 – The equipment unit shall not reside at the same location for more than 12 consecutive months.
- Condition 8 – The operation of this equipment unit shall not cause a public nuisance.<sup>3</sup>
- Condition 12 – The operator of a portable engine or equipment unit shall obtain district authorization prior to operation at any specific location where the Statewide registration is not valid.

Emission Limitations:

- Condition 16 - There shall be no visible emissions beyond the property line on which the equipment is being operated.
- Condition 19 – Open areas shall be maintained adequately wet to prevent fugitive emissions in excess of 20 percent opacity or Ringlemann 1.

Operational Requirements:

- Condition 25 – Water sprays shall be used on all stockpiled material to control fugitive particulate matter emissions, unless there are no visible emission from the transfer point.
- Condition 27 – All roads subject to vehicular traffic shall be either paved or adequately watered to minimize fugitive particulate matter emissions.

Inspection Requirements:

- Condition 44 - Within 45 days after initial issuance or renewal of a registration, the owner or operator shall contact the home district (BAAQMD) to arrange for inspection to be completed within one year of the initial registration or renewal date. If the equipment unit is operating in a district other than the home district, the owner or operator may request the home district to arrange an inspection by that other district.

Once the PERP is approved by the Air Resource Board, The Bay Area Air Quality Management District is responsible for all inspections. The Bay Area Air Quality Management District inspected the BACR facility and on May 21, 2018 a draft “Notice of Violation” prepared by Troy Hash, BAAQMD Inspector, was submitted for staff review before the violation will be issued to BACR. Among the violations included in the draft is exceeding the amount of concrete recycled in a year, the height of the process material mound and operating without an “Authority to Construct” and “Permit to Operate”.<sup>4</sup> For Portable Crushing Equipment, BAAQMD limits the quantity of Throughput to 5,000 tons per year. BACR Throughput from February 2017 to 2018 was 230,823 tons.

While the City is not responsible for the enforcement and monitoring of the State and Regional Air District Permits, staff has noted that many of the conditions contained within the State Permit have not been met. Specifically, stockpiles of processed and unprocessed material have not been kept wet to prevent fugitive dust from spreading both off-site and on-site; the

<sup>3</sup> The “Fugitive Dust Control Self-Inspection Handbook provides information on how to Control Dust. See link. [https://www.arb.ca.gov/pm/fugitivedust\\_large.pdf](https://www.arb.ca.gov/pm/fugitivedust_large.pdf)

<sup>4</sup> BAAQMD information on “Authority to Construct” and “Permit to Operate” <http://www.baaqmd.gov/permits/apply-for-a-permit>

paved area within the property is covered with dust such that in some areas you are not able to see the paving; water sprays have not been observed on the stockpiled material; and the driveways on site subject to vehicular traffic have not been paved. Nor have they complied with the BAAQMD's limit of through put for portable crushing equipment. As a result, dust has been tracked onto the adjacent public streets and the City has received numerous complaints about the continued operation of this recycling center use.

Hayward Water Pollution Source Control: Aside from the ongoing Code Enforcement issues related to illegal operations without permits, the City's Water Pollution Source Control (WPSC) has conducted yearly inspection of BACR. In the 2016 inspection it was noted that there was no sign of on-site surface drainage systems/utilities. There is a storm drain inlet at the very front of the facility entrance that appeared clean and free of sediment buildup. The facility is covered under the State's Industrial General Permit but as of this inspection had not filed the appropriate documents to be permitted by the State program. In February 2017 WPSC responded to a public complaint about excessive dust and excessive sediment on Clawiter Road. There were signs of sediment and tire marks on the street but no dust evident inside or outside of the facility. BACR was advised to sweep and spray the site more frequently. In February 2018, BACR receives "Stormwater Management and Urban Runoff Control Notice of Violation" for "drag-out of sediment into the roadway which may contribute to stormwater pollution or contamination."

Code Enforcement Citations: As previously noted, the applicant has received several citations for illegal land use activities on the subject parcels. The first complaint came in November 2013 and later closed in December 2016. No fines were issued during this period as any enforcement actions were on-hold while the Administrative Use Permit for the Depot Road site was under review. Once approved, the applicant was given additional time to process the building and grading plans and construct the facility. In 2016, a new Code Enforcement case was opened when the City received a complaint that the applicant was building an office within the warehouse space without the necessary building permits. Below is a list of the citations related to the outdoor concrete recycling use:

- Nov. 4, 2013. A concrete recycling facility is operating without approval of a CUP/or AUP at 24701 Clawiter Road. Dust from the operation is not being controlled and getting on adjacent property cars.
- Jan. 7, 2015. A large pile of rock and dirt is raising a large cloud of dust and dirt that is blowing everywhere.
- Sept. 21, 2016. Office is being built upstairs without Building Permits at 24701 Clawiter Road.
- Jan. 25, 2018. Trucks working on property are spilling dirt and rocks onto the sidewalk and street.
- Sept. 25, 2018. A tall cylindrical storage tank was constructed in the Waste Slurry processing area without building permits.

Since 2013, the City's Code Enforcement Division periodically fined BACR for routine violations of the Muni Code but starting in March 2017, Code Enforcement began assessing more aggressive fines for "Egregious Violations" related to the continued operation of the

outdoor concrete recycling facility. Some of the violations previously cited remain unpaid and the applicant continues to operate. Staff has included a list of violations as Attachment VII.

Public Outreach: An initial Notice of Receipt of the project application was sent to property owners, businesses and, residents within a 300-foot radius of the site on March 30, 2018. Staff received three (3) responses from nearby business owners expressing concerns about the lack of dust control, the effectiveness of the street sweeper, the impact to property and the health risk from being exposed to silica dust. One of the three responses expressed opposition to the issuance of an Administrative Use Permit for a temporary use. A list of the correspondence received is included as Attachment VI.

On September 27, 2018, public hearing notices related to the appeal of the denial of the Administrative Use Permit was published in The Daily Review and sent to all property owners, residents and businesses within 300-foot radius of the project site. Staff received one response to the notice. First, concern was expressed about the safety of his employees and guest. The stockpile encroaches on his property and large masses of concrete could tumble down on his employees. Second, concern was expressed about the amount of dust and air borne particulates created. Lastly, concern was expressed about storm water runoff and water being diverted onto his property.

## **PROJECT DESCRIPTION**

Existing Conditions: The proposed concrete recycling use is located on the northwestern portion of a 4.76-acre site at 24701 Clawiter Road. There are two easements along the western portion of the property, parallel with the Southern Pacific Coast rail road tracks: a 15' wide PG&E easement and a 40' City/County of San Francisco Water Pipeline easement. The eastern portion of the site is currently utilized as a truck storage and maintenance facility with that area graded and containing either asphalt paving or broken concrete. The southwestern portion of the site contains a Slurry Separation and Reuse operation on concrete pavement. Additionally, the site contains two warehouse buildings, which are placed along the southern property line.

Adjacent businesses include ConXtech and DW Nicholson Corporation, both of which include indoor manufacturing and fabrication uses. To the west, there are Southern Pacific Coast Railroad tracks and light industrial warehouses. The closest residential development is located northwest of the project site, approximately 1000 feet away.

Proposed Project: The applicant, Bay Area Concrete Recycling is requesting an Administrative Use Permit to allow the continued operation of their Type A inert outdoor concrete recycling facility until such time that their Depot Road site facility is built and in operation. BACR would like to operate the recycling facility 24 hours a day, 7 days a week but has been operating the facility 5 days a week, from 5:30 am to 3:30 pm. The applicant would provide a portable toilet facility between the warehouses and states they will have adequate parking. As currently shown, only two parking spaces are identified on their plans and based on the other uses on-site, the amount of parking may not be sufficient.



The outdoor concrete recycling area is proposed to be 200'x 555' and use approximately 2.15 acres of the project site. Vehicle access is proposed from Clawiter Road, where the trucks would drop off their broken concrete/asphalt material (Type A Inert) to a stockpile location. From the stockpile, the concrete is moved with the use of a front-end loader or excavator and deposited in the portable crusher, which breaks down the larger pieces of concrete to smaller, aggregate sized material. The crusher then transfers the aggregate material via conveyor belt(s) to the finished concrete aggregate stockpile. The front-end loader then takes the aggregate base, loads it into trucks and the trucks exit the site onto Clawiter Road. Approximately half of the truck circulation path is on a paved surface while the other drive areas are unpaved and substandard. Currently, the applicant controls dust through the use of water trucks and spray systems within the equipment, but the regenerative street sweeper has not been successful in controlling dust from tracking on public streets.

The applicant did not provide a topographic survey with this submittal and therefore, any grading and drainage impacts have not been evaluated. However, the plans that were provided reflect the site only contains one drain inlet, which is not sufficient to accommodate a 4.76-acre site. The proposed continuation of this use, even on a temporary basis, does not include any permanent site improvements and since 2013, the uses on the site have expanded to the undeveloped portions of the site and have not included the appropriate and necessary site improvements. The project plans are included as Attachment V.

Landscaping: Except for two trees in the front of the property there is no other landscaping on-site. The applicant was proposing to provide a twenty-foot planting strip along the front of the property, and a 10-foot wide by 350 feet long vegetative swale along the north property line leading to the existing drain inlet in the front of the property. As proposed, the landscaping would not screen the areas proposed for stockpiles.

Sustainability Features: No buildings are being proposed and the applicant is not proposing to incorporate any sustainability features.

## **POLICY CONTEXT AND CODE COMPLIANCE**

Hayward 2040 General Plan: The subject property is designated as Industrial Technology and Innovation Corridor (IC) in the *Hayward 2040 General Plan*.<sup>5</sup> Typical building types include warehouses, office buildings, research and development facilities, manufacturing plants, business parks, and corporate campus buildings. Future changes to the Industrial Technology and Innovation Corridor are expected to include building and landscaping improvements, infill development, and the redevelopment of underutilized properties. The Corridor is expected to grow as an economic and employment center and evolve to achieve a healthy balance of traditional manufacturing and information- and technology-based uses. Allowed Uses include Professional Office Use, Corporate Campuses, Research and Development and Warehousing and Logistics, Manufacturing, Bio-technology and high-technology uses.

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<sup>5</sup> The Industrial Technology and Innovation Corridor  
<https://www.hayward2040generalplan.com/land-use/industrial>

As noted in the staff findings (Attachment II), a temporary and continued operation of an Outdoor Concrete Recycling Facility at this location is not in harmony with applicable City policies in that it is not consistent with land use goals and policies of the *Hayward 2040 General Plan* in that:

*“...This goal and its supporting policies are designed to maintain and improve the Industrial Technology and Innovation Corridor and expand the economic and employment base of Hayward. The policies support land use changes that will help Hayward transition from a manufacturing-based economy to an information- and technology-based economy.”*

The temporary and continued operation of an outdoor heavy industrial use in this location, which is surrounded by primarily light industrial uses, would not help the City to transition from a manufacturing-based economy to an information- and technology-based economy, consistent with General Plan Policy LU-6.1: Land Uses, which states:

*“The City shall encourage employee-intensive uses, such as professional office, corporate campuses, research and development, traditional and specialized manufacturing, throughout the Industrial Technology and Innovation Corridor.”*

Additionally, the temporary and continued operation of an outdoor heavy-industrial land use at this location would not encourage employee-intensive uses and is incompatible with the existing light industrial land uses in the area. Specifically, General Plan Policy LU-6.5 states that:

*“The City shall protect the Industrial Technology and Innovation Corridor from the encroachment of uses that would impair industrial operations or create future land use conflicts.”*

The facility has demonstrated conflicts with surrounding land uses, which are approved for light industrial uses. Additionally, the proposed temporary nature of this outdoor heavy industrial use does not result in the significant property upgrades that were envisioned in the City’s General Plan, including Land Use Policy LU-6.6, which states that:

*“The City shall encourage property owners to upgrade existing buildings, site facilities, and landscaped areas to improve the economic viability of properties and to enhance the visual character of the Industrial Technology and Innovation Corridor.”*

As proposed, the project application does not provide any site improvements plans to enhance the visual character of the site or surrounding area. The existing paving is in poor condition, the existing drainage system is inadequate and though the plans submitted indicate that planting will be provided, no detailed or conceptual planting plans were submitted. The submittal states that adequate parking will be provided, but the parking layout is not shown on the plan.

**Zoning Ordinance:** The subject property is zoned Industrial (I).<sup>6</sup> The purpose of the Industrial (I) zoning district is to provide for and encourage the development of industrial

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<sup>6</sup> The Industrial Section of the Zoning Ordinance.

uses in areas suitable for same, and to promote a desirable and attractive working environment with a minimum of detriment to surrounding properties. Although the Industrial District does allow for Temporary Uses with the approval of an Administrative Use Permit, the project is subject to the same development and performance standards as well as the same legal findings for other administrative uses in the District. Specifically, Section 10-1-1645 of the Municipal Code (Design and Performance Standards) requires any proposed use, temporary or permanent, provide the following:

- *"Parking and driveway surfaces shall be paved with an all-weather dustless material(s), such as concrete or asphaltic surface, as approved by the Planning Director."*
- *"All open areas not landscaped shall be treated or paved with an all-weather, dustless material, such as an asphaltic surface, as approved by the Planning Director. Surface shall be permanently maintained, including replacement where necessary."*
- *"Trash and recycling facilities shall be adequately screened from view, utilizing a decorative wood or masonry wall or combination thereof (unless waived by the Planning Director or other approving authority) compatible with the design of the primary building."*

As proposed, the applicant is not proposing to make any permanent site improvements to meet the development standards of the City's Zoning Ordinance. In addition, for the City to approve the Administrative Use Permit, all of the following findings must be made:

- a. The proposed use is desirable for the public convenience or welfare;
- b. The proposed use will not impair the character and integrity of the zoning district and surrounding area;
- c. The proposed use will not be detrimental to the public health, safety, or general welfare; and
- d. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

As noted in the background section of this report, staff identified several areas of this project application which are inconsistent with the City's General Plan policies and Zoning Ordinance development standards. Staff included the analysis and findings for denial in Attachment II.

**Strategic Priority:** This agenda item does not support the Complete Streets Strategic Initiative. The purpose of the Complete Streets Strategic Initiative is to build streets that are safe, comfortable, and convenient for travel for everyone, regardless of age or ability, including motorists, pedestrians, bicyclists, and public transportation riders. The City has received several complaints about dust debris in the street and that their street sweeping merely moves the dust and debris around.

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[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART1ZOOR\\_S10-1.1600INDII](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.1600INDII)

## STAFF ANALYSIS

The Industrial District is established to provide for and encourage the development of industrial uses in an area suitable for those uses. An Administrative Use Permit is required to determine if the use will be suitable in the area that it is proposed. An application for a temporary use does not exempt the applicant from compliance with local policies or development standards, CEQA, or any other state/regional agency requirement.

In evaluating this application, staff notes that the concrete recycling facility is located in an area that is surrounded by predominately light industrial uses and any processing of materials are indoor. The outdoor concrete recycling facility is the only use in the surrounding area that material is processed outdoors. This facility has already demonstrated conflicts with surrounding land uses as is evident from complaints from surrounding businesses and individuals. The applicant has filed an application to relocate their concrete recycling facility to 3898/3890 Depot Road where they would be among other similar uses and facilities, including the Calpine Russell City Energy Center, auto wrecking yards, and the City of Hayward Sewage Treatment Plant. Since 2013, staff has continued to work with BACR to meet the policies of the General Plan and the development standards of City; however, the continued operation of the recycling facility without permanent improvements or additional measures has resulted in significant public health and safety issues for the adjacent properties as well as impacts to the environment.

As previously noted, the proposed use at the subject site must meet the same development standards and conditions that were evaluated and imposed on the Depot Road site to mitigate any possible impacts. And though each site must meet the same development standards, they are evaluated individually for the suitability of the proposed use in the context of the surrounding area. Approval of one site does not imply approval of the other, nor does it mean that possible impacts have been address on the other site.

As proposed, the plans for a temporary use do not comply with the development standards of the Zoning Ordinance and are not consistent with land use policies of the *Hayward 2040 General Plan*. The use of this site has been incrementally intensified with additional uses without any significant site or frontage improvements. Many of these improvements are required to address the adverse impacts of the operation(s) of the various uses to preserve public health, safety and welfare, as well as mitigate any possible environmental impacts, that are currently not being proposed or are in place to allow for the continued operation of this outdoor recycling use.

Staff also notes that BACR has been operating the concrete recycling facility without the necessary Air Resources Board and Bay Area Quality Management District (BAAQMD) Permits since their operations began in 2013. Based on the analysis cited above and inability for staff to make the necessary findings for approval for an Administrative Use Permit for the continued operation of the outdoor concrete recycling facility at the subject property, staff believes the Planning Commission can support the findings for denial and deny the appeal.

## ENVIRONMENTAL REVIEW

The denial of Administrative Use Permit Application No. 201801996, to temporarily operate an Outdoor Concrete Recycling Facility is statutorily exempt from environmental review per Section 15270(a) (Projects that are Disapproved) of the California Environmental Quality Act (CEQA) Guidelines. If the Planning Commission overturns staff's decision, the applicant will need to provide additional application materials and be subject to full CEQA review.

## NEXT STEPS

If the Planning Commission upholds staff's decision and rejects the appeal, the applicant may file an appeal of the Planning Commission's decision to the City Council. The Planning Commission could also uphold staff's decision and deny the appeal without prejudice. This would allow the applicant to reapply soon after rather than wait a year. If the Planning Commission sustains the appeal, the applicant would have to submit a revised application with detailed plans and reports, provide the necessary findings for approval and be subject to CEQA environmental review before it comes back to the Planning Commission.

Prepared by: Carl Emura, Associate Planner

Approved by:



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Sara Buizer, AICP, Planning Manager



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Laura Simpson, AICP, Development Services Director

**CITY OF HAYWARD  
PLANNING DIVISION  
ADMINISTRATIVE USE PERMIT  
APPLICATION NO. PL-201801996  
FINDINGS FOR DENIAL**

**EFFECTIVE DATE: JULY 24, 2018**

Section 1. Background

1. On April 17, 2018, Kimberly Douglas for Bay Area Concrete Recycling, LLC. (Applicant) filed an application with the Development Services Department requesting to operate a temporary outdoor Concrete Recycling Facility at 24701 Clawiter Road (APN 439-0020-002-03) in the City of Hayward. The project site is within in the Industrial (I) Zoning District and is designated IC, Industrial Corridor in the *Hayward 2040 General Plan*.
2. Pursuant to Section 10-1.3105 of the Hayward Municipal Code (HMC), Administrative Use Permit (AUP) approvals are to assure certain specified uses are permitted where there is community need, and to assure said uses occur in maximum harmony with the area and in accordance with official City policies. Given that the project site is located within the Industrial zoning district, the project requires a Temporary AUP to allow the temporary (continued) operation of a concrete recycling facility until the 3898 Depot Road site receives approval for and Administrative Use Permit for an Indoor Concrete Recycling facility and the facility constructed.

Section 2. Findings for the Administrative Use Permit

Per Section 10-1.3120 of the Hayward Municipal Code, the Planning Director may approve, conditionally approve, disapprove, or refer an Administrative Use Permit application to the Planning Commission, with or without a recommendation. Except for referrals, action must be based on the findings listed below in Section 10-1.3125, as stated below. The Planning Director may approve or conditionally approve an application when all the following findings are met:

**A. The use is desirable for the public convenience or welfare.**

The temporary (continued) operation of an Outdoor Concrete Recycling Facility, is not desirable for the public welfare in that the facility has been operating without the necessary land use or regulatory permits and has been cited by the City's Code Enforcement Division and deemed a public nuisance since it began operations in 2013. Though an application was submitted for an Administrative Use Permit on November 16, 2012, it was terminated for lack of action on the application. Subsequently, staff received a complaint in November 4, 2013 regarding dust not being controlled and complaints continue to be reported to the City and the problem continues to persist. Section. 10-1.150 Nuisance of the Municipal Code states:

*"No use or expansion of any existing use shall be conducted in a manner that is detrimental to or incompatible with adjacent properties so as to create any dangerous, noxious, or objectionable conditions which are a nuisance to owners or users of adjoining property or to the general public. The following hazards, pollutants, and disturbances are examples of conditions that constitute a nuisance, and include but are not limited to: fire, explosion, odor, gases, smoke, dust, liquid*

*or solid refuse or wastes, noise, vibration, electrical interference, glare, heat, cold, and dampness. ”*

Many of the improvements required to address the adverse impacts of the operation of an outdoor concrete recycling facility, including environmental issues are not in place and have not been adhered to. To continue the operation of a use that has already been deemed a public nuisance to a date uncertain would not be in the best interest of the public welfare. In addition, the temporary and continued operation of an Outdoor Concrete Recycling Facility is not desirable for the public convenience or welfare in that the site improvements necessary to ensure public safety and welfare have not been proposed as part of this temporary use application and the proposed temporary operation would not upgrade or improve the site to meet all local land use, regulatory guidelines and environmental regulations.

**B. The use will not impair the character and integrity of the zoning district and surrounding area.**

The temporary (continued) operation of the Outdoor Concrete Recycling Facility, has impaired the character and integrity of the Industrial District and surrounding area in that the City has received several complaints about environmental impacts related to air quality and water quality impacts from dust and dirt being tracked onto public streets and washed into the public sewer system. Though the concrete crushing machinery has a dust suppression system, the lack of operational and environmental oversight has resulted in dust emissions from unloading and loading the trucks, moving concrete rubble around the site, and loading the concrete crushing machinery.

The existing site does not have the necessary site improvements to minimize the tracking of dust and the applicant is not proposing to make additional site improvements related to this Administrative Use Permit. Per Section 10-1-1645 of the Hayward Municipal Code (Minimum Design and Performance Standards), the proposed use in the Industrial District requires the following:

- *“Parking and driveway surfaces shall be paved with an all-weather dustless material(s), such as concrete or asphaltic surface, as approved by the Planning Director.”*
- *“All open areas not landscaped shall be treated or paved with an all-weather, dustless material, such as an asphaltic surface, as approved by the Planning Director. Surface shall be permanently maintained, including replacement where necessary.”*

Much of the existing project site is unpaved and contains multiple businesses (trucking facility, outdoor sludge treatment) which further contribute to the air quality impacts with dust becoming airborne or being washed into the public sewer system. The previous attempts to street sweep the dust has not been successful and have only drawn more complaints from surrounding neighbors and property owners related to the recycling operation.

The project site is located along Clawiter Road, a major arterial road in the Industrial District, which is surrounded principally by light industrial uses. The operational nature of this heavy industrial use is noisy and not compatible with the adjacent light industrial land uses in the project vicinity. Additionally, the stockpile of concrete rubble and recycled concrete is visually

intrusive and the applicant is not proposing any measures to screen the piles from the street such as a high wall or trees. Section 10-1-1645 of the Hayward Municipal Code requires the following:

- *“Trash and recycling facilities shall be adequately screened from view, utilizing a decorative wood or masonry wall or combination thereof (unless waived by the Planning Director or other approving authority) compatible with the design of the primary building.*

These site improvements are not in place and it has been demonstrated that the temporary and continued operation of the outdoor concrete recycling facility without the necessary site improvements would continue to impair the character and integrity of the surrounding area.

**C. The use will not be detrimental to the public health, safety, or general welfare.**

The temporary use and continued operation of the Outdoor Concrete Recycling Facility at this location is detrimental to the public health, safety, or general welfare in that the air quality impacts from dust created by the concrete recycling process poses a potential health risk. Concrete is being crushed and much of this particulate material, crystalline silica dust, is becoming airborne and creating a public health and safety issue. If any employees or persons in the project vicinity is over-exposed to crystalline silica dust, it can lead to lung disease and other respiratory issues. Several residents and property owners in the immediate project vicinity have raised concerns about the potential health risks associated with the continued illegal operation of this outdoor concrete recycling operation.

In addition, the existing concrete recycling facility has been operating without the necessary Bay Area Quality Management District (BAAQMD) permit, which is intended to minimize public health and environmental impacts for the operation of a facility of this size. The continued operation of this use, on a temporary basis, does not provide the necessary improvements to the site to ensure that impacts to public health, safety and general welfare are minimized.

**D. The use is not in harmony with applicable City policies and the intent and purpose of the zoning district involved.**

The temporary and continued operation of an Outdoor Concrete Recycling Facility at this location is not in harmony with applicable City policies in that it is not consistent with land use goals and policies of the *Hayward 2040 General Plan* in that:

*“...This goal and its supporting policies are designed to maintain and improve the Industrial Technology and Innovation Corridor and expand the economic and employment base of Hayward. The policies support land use changes that will help Hayward transition from a manufacturing-based economy to an information- and technology-based economy.”*

The temporary and continued operation of a heavy industrial use (Outdoor Concrete Recycling Facility) in this location, which is surrounded by light industrial uses, would not help the City to transition from a manufacturing-based economy to an information- and technology-based economy, consistent with General Plan Policy LU-6.1: Land Uses, which states:



*“The City shall encourage employee-intensive uses, such as professional office, corporate campuses, research and development, traditional and specialized manufacturing, throughout the Industrial Technology and Innovation Corridor.”*

Additionally, the temporary and continued operation of heavy-industrial land use at this location would not encourage employee-intensive uses and is incompatible with the existing

light industrial land uses in the area. Specifically, General Plan Policy LU-6.5 states that:

*“The City shall protect the Industrial Technology and Innovation Corridor from the encroachment of uses that would impair industrial operations or create future land use conflicts.”*

The facility has demonstrated conflicts with surrounding land uses, which are approved for light industrial uses. Additionally, the proposed temporary nature of this heavy industrial use does not result in the significant property upgrades that were envisioned in the City’s General Plan, including Land Use Policy LU-6.6, which states that:

*“The City shall encourage property owners to upgrade existing buildings, site facilities, and landscaped areas to improve the economic viability of properties and to enhance the visual character of the Industrial Technology and Innovation Corridor.”*

As proposed, the project application does not propose any site improvements to enhance the visual character of the site or surrounding area. In conclusion, the temporary and continued use of this land use on the subject property would not be in harmony with adopted land use policies.

- E. The denial of Administrative Use Permit Application No. 201801996, to temporarily operate an Outdoor Concrete Recycling Facility is statutorily exempt from environmental review per Section 15270(a) (Projects that are Disapproved) of the California Environmental Quality Act (CEQA) Guidelines;

Section 3. Decision

Administrative Use Permit No. 201801996 is hereby denied. This decision is subject to a 15-day appeal period and will become effective on July 24, 2018.



**BAY AREA CONCRETE RECYCLING**  
A WMBE CERTIFIED BUSINESS

24701 CLAWITER ROAD | HAYWARD, CA 94545  
Office: 510-294-0220 | Fax: 510-380-7447

[www.bayareaconcrete.com](http://www.bayareaconcrete.com)

July 23, 2018

City of Hayward  
Development Services Division  
Att: Carl Emura, Associate Planner  
777 B Street  
Hayward, CA 94541  
510.583.4200

**RECEIVED**

JUL 23 2018

PLANNING DIVISION

**RE: Appeal To Finding Of Denial For Application No. 201801996 – Temporary Administrative Use Permit- To Allow Temporary Operation Of A Concrete Recycling Facility, 24701 Clawiter Road**

Dear Mr. Carl Emura -

Bay Area Concrete Recycling **appeals** the "finding for denial" as identified in your letter dated July 6, 2018. Find hereby the check as requested for \$6,745.98, as identified in your email.

Attachment A contains in writing the specific action appealed from, the specific grounds of the appeal and the action sought. Which should be obvious which is to continue the outdoor operation at 24701 Clawiter Road until the permanent indoor facility is operational at 3898 Depot Road. It should be noted that Bay Area Concrete Recycling (BACR) reserves the right to add to this appeals package until the hearing. Any additional documents will be forwarded in writing to you as well, prior to the hearing.

As you are well aware BACR received approval on our prior AUP (PL-2014-0225, Attachment B) on May 19, 2015 at 3898 Depot Road. Soon after receiving our approval we were notified by you that the City's Water Quality division had not been included on the project routing protocol and that additional conditions were needed to be added to the prior approval. In addition, the project approval required the use of recycled water which was not immediately available to the site. Both issues delayed compliance with the project conditions of approval. More importantly the lack of recycled water delayed the project past the mandated AUP completion date. Staff was unwilling to extend or amend the prior approved AUP and in response to the City's unwillingness to extend or amend the prior approved AUP BACR needed to file a new AUP for the same prior permitted operations with the modification that all crushing operations were to be completely enclosed within a new building. That permit application was submitted to the City on June 7 and is currently in the review process. The interim operations at 24701 Clawiter have always been treated by BACR as a temporary operation fully reliant on the City's timely review

Mr, Carl Emura  
Associate Planner  
City of Hayward, Development Services Division

July 23, 2018

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of BACR applications and the City's obligation to bring recycled water to the Depot Road Site.  
As of July 23, 2018 still no recycled water is available for easy hookup.

Sincerely, if you have any questions do not hesitate to contact us via email or at 510-294-0220.



Kimberly Douglas  
Account Manager

**Enclosures**

- Attachment A:      Technical Package regarding the Temporary Administrative Use Permit-  
                                 Appeal to Findings for Denial
- Attachment B:      AUP PL-2014-0225

**ATTACHMENT A**

**TECHNICAL PACKAGE REGARDING THE TEMPORARY ADMINISTRATIVE USE PERMIT-  
APPEAL TO FINDINGS FOR DENIAL**

July 2018

# TEMPORARY ADMINISTRATIVE USE PERMIT-APPEAL TO FINDINGS FOR DENIAL

## BAY AREA CONCRETE RECYCLING

**Submitted To:**

Bay Area Concrete Recycling LLC

24701 Clawiter

City of Hayward, CA 94545

**Submitted By:**

TBI Engineering

Civil Environmental Engineers

480 Tan Oak Terrace

Sunnyvale, CA 94086

**Distribution:**

1 copies – Bay Area Concrete Recycling LLC

1 copies – City of Hayward

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Figure G7	Enlarged Building Details

## ATTACHMENTS

Attachment A	PERP permits are attached for Type A inert BACR- Hayward Operation
Attachment B	Existing Waterboard Permit
Attachment C	Aerial Photograph, identifying pavement
Attachment D	Email by Tim Bauters and Troy Hash (BAAQMD attached)

## EXECUTIVE SUMMARY

Bay Area Concrete Recycling LLC (BACR) was disappointed by the finding of denial by the City of Hayward planning regarding Application No. 201801996 - Temporary Administrative Use Permit- to allow to continued temporary interim operation of a Type A inert Recycling facility.

As documented in the April AUP application package, the application for Temporary Administrative Use Permit is to transition the existing Type A Inert Recycling Facility located at 24701 Clawiter Road to 3898 Depot Road (appeal package), in the City of Hayward in an orderly and controlled manner with typically "conditions" attached to this type of temporary use permit. Especially the estimated volume of +100,000 cubic yards of material in transition for the Type A inert operation at 24701 Clawiter Road will necessitate a certain time period to accommodate a smooth transition and cause minimal amount of disturbance with neighbors which we believe would be the case if a "cease of operations" takes place with immediate effect.

This appeal package as detailed below consists of the initial background of the project, with a detailed existing project description, project objectives, project operational details and project environmental controls.

Following the project description is the detailed appeal to the findings from the City of Hayward with the specific action appealed from and specific grounds. The action the appeal is obvious and is to continue the operation until the permanent operations at 3898 Depot Road is fully operational.

This appeal packages finishes with a brief summary.



## BACKGROUND FOR THE TEMPORARY ADMINISTRATIVE USE PERMIT

This project description details how the proposed temporary Type A inert concrete/asphalt recycling facility operates and addresses some comments that have been received during earlier meeting(s) with City of Hayward staff. In addition to the project description, our argument of how the proposed temporary AUP would meet the findings required to issue a temporary administrative use permit (Temporary Permit), can be found in later in the appeals package.

## REQUESTED ENTITLEMENTS

Bay Area Concrete Recycling was requesting issuance of a temporary administrative use permit to continue to operate a Type A Inert Recycling Facility -under defined City of Hayward conditions- on a portion of the property they lease from S&A Investment Holdings LLC (owner of the property) in the City of Hayward at 24701 Clawiter Road until a permanent enclosed state of the art Type A inert recycling facility is fully operational and permitted at 3898 Depot Road, Hayward; this mainly to guarantee the transition in operation happens in an orderly and controlled manner, especially to manage the +100,000 cubic yard of material in transition at 24701 Clawiter Road.

## OBJECTIVES OF THE PROJECT

The Temporary Permit allows Bay Area Concrete clients and customers to continue to recycle Type A inerts, as required by City Ordinance No. 01-05, at a local facility until the fully enclosed state-of-the-art indoor type A inert facility at 3898 Depot Road is fully operational. The facility fulfills the need for a Type A inert recycling facility in the city, has the potential to reduce regional wide truck traffic and associated air pollution and greenhouse gas emissions, and generates an increased tax base within the city.

## PROJECT SETTING

The project is located in the City of Hayward on the northwestern portion of a 4.76-acre site (parcel 439-0020-002-03) at 24701 Clawiter Road. The property is zoned Industrial and is surrounded by industrial uses. The nearest residence is approximately 1,500 feet from the property. The property has industrial uses to the north and south, Clawiter Road borders the property to the east and a Union Pacific railroad corridor borders the property to the west (Figure G2). There are two easements that are along the western portion of the property, parallel with the rail road tracks. The first being a PG&E Gas Line easement that requires a 15 foot setback and the second is a City and County of San Francisco Water Pipeline easement that requires a 40 foot setback.

The eastern portion of the site is currently utilized as a truck storage and maintenance facility. The eastern portion of the site has been graded and is either paved with asphalt and fully paved with broken concrete and the larger northwestern portion of the site remains compacted earth with an upper layer of recycled aggregate base. Operating on the southwestern portion of the site is the Slurry Separation and Reuse™ Facility, operating fully on concrete pavement. Two warehouse buildings, one of which contains

6

office space, currently exist on the property.

## PROJECT DESCRIPTION

The Type A Inert Recycling operation was developed and is operational on the northwestern (back) approximately 2.15 acre portion of the site, beginning approximately 375 feet from Clawiter Road (Figure G3). The eastern portion of the property will continue to be used as a truck storage and maintenance facility. The remaining portion of the northwestern site will remain hard compacted ground and will accommodate the raw material stockpile, crushing equipment, and finished aggregate stockpile. No portable office structures will be necessary. A secondary contained portable bathroom facility will be available between both warehouse building structures. Adequate Parking spaces will be provided along the southeastern portion of the site and the northeastern portion of the property will also have a 10 ft landscaped area (consisting of a vegetated swale) along the northern fence line as required by the municipal code.

## PROJECT OPERATIONS

### Description of Operations

Type A inert demolition debris from demolition construction projects is reprocessed and broken down to create Caltrans Recycled Aggregate Base for new construction projects. Broken Type A inerts are brought to the site in trucks with typically end-dump trailers or equivalent. Trucks will unload their broken concrete/asphalt (type A inerts) into the raw material stockpile located in the far western portion of the site. From there the concrete is moved with the use of a front-end loader or excavator and deposited into the crusher. The crusher does breakdown larger pieces of concrete and screens the broken concrete into the desired size of the aggregate base. When the aggregate base meets the desired size, it is separated and moved along conveyor belt(s), which empties the aggregate base rock into a finished stockpile. The front-end loader takes the aggregate base from the finished stockpile and loads it into trucks that have come to the facility for aggregate base.

### Hours of Operation

The applicant is seeking a temporary permit to operate 24 hours a day and 7 days a week, but will typically operate the facility 5 days a week from 5.30 a.m. to 3.30 p.m.

### Traffic Flow

Trucks enter the site either from the one-way portion of Clawiter road where it splits into Industrial Boulevard. Trucks will then make a right-hand turn into the property from Clawiter, trucks could be entering the facility from the south as well either from Clawiter or Industrial (Figure G4). All truck traffic will have a designated flow pattern after entering the site. The trucks will drive towards the northern property line to western portion of the property, where the type A inert recycling facility is located. The inbound trucks stop near the yard manager to complete the tags and to be load-checked. The loads of recycled concrete/asphalt are monitored for contaminated or potentially illegal materials. Following inspection, the trucks continue counter-clockwise to the concrete

raw material pile to drop their load. They then either proceed back to the yard manager or they receive a new load of finished aggregate base rock that has been produced from crushing and screening the recycled concrete/asphalt. All outbound trucks travel past the existing warehouse structures on the right toward Clawiter Road and either proceed straight to access Industrial Boulevard or make a right-hand turn and proceed south on Clawiter Road.

## ENVIRONMENTAL CONTROLS

### Hazardous Materials

To prevent hazardous materials from being dumped with the loads of broken concrete, site the yard manager inspects the materials received at the site for potential contamination, with particular attention to color and request source of the type A inerts. If materials are stained, or exhibit any form of petroleum contamination, they are rejected. The yard manager can use a photo ionization detector (PID) to evaluate any volatile organic compounds that may be detected from the soil contained in a load. If the levels exceed 10 particles per million (ppm), the materials are rejected and cannot be allowed to dump.

Equipment used at the operation will be powered with diesel fuel or be electric powered and all be registered with DOORS. The eastern portion of the property will remain a truck storage and maintenance facility, where a diesel refueling truck visits the site daily to refill the trucks' fuel tanks. This diesel refueling truck also supplies the Bay Area Concrete Recycling operating equipment (e.g., loader, excavators, crushing equipment, generator) with fuel. Any other petroleum product or hazardous material in small quantities necessary to operate the concrete recycling plant are stored inside one of the two existing warehouse buildings on the property (the maintenance shop).

### Noise

The most substantial levels of noise generated from the operations are the diesel engines of the loader and excavator(s) that are used to move the Type A Inerts from the raw material stockpile and into the processing equipment. The crushers and vibrating screen of the crushing and screening plant are a source of noise from the operation. However, based on reports by the equipment's manufacturer, that noise is dissipated to approximately 50 decibels at a distance of 200 feet away. Therefore the noise levels will be at/or below 50 decibels at the property line. Raw Material stockpiles and finished material stockpiles can be optimally situated to block noise from areas of concern.

### Dust Control

Dust from the processing of the materials is controlled using a state-of-the-art dust suppression system designed specifically for the crushing equipment that is used at all times at this facility. The spray system is manually controlled using shut-off valves that enable the operator to adjust the amount of water used at each location of the crushing and screening plant in accordance with airboard regulations. The nozzles have an automated module with a solenoid and control relay activated by means of presence detector. The water used in the state of the art dust suppression system pulls water

from the Slurry Separation™ and Reuse facility. There is no need to increase the existing 5/8 inch water supply currently providing the warehouses.

Near the crushing and screening a Dustboss™ can be installed to control the finest of the dusts by breaking concrete: potential silica particles. The Dustboss™ will provide a small particle mist to knock down those particles to provide adequate operational conditions for workers to be present with appropriate training and those type of state-of-the-art engineering controls in-place.

Furthermore, a water truck will be used to wet the nonpaved areas of the facility during dry seasons, a regenerative sweeper will be utilized to vacuum the dust particles on the concrete or asphalt paving. The water truck will also pull water from the Slurry Separation™ and Reuse facility.

### Stormwater

A stormwater pollution prevention plan has been prepared under the General Industrial Stormwater Permit for the Slurry Separation and Reuse™ facility through the Regional San Francisco Bay Area Regional Water Quality Control Board. The northwestern portion of the facility is currently graded to an approximately 1 percent grade toward the Slurry Separation and Reuse™ facility (Figure G5). The Slurry Separation and Reuse™ facility has the capacity to contain all of the stormwater generated from the site.

Stormwater generated from the type A inert facility will not be released into a municipal stormwater system. The type A inert facility together with the Slurry Separation™ and Reuse facility are self-contained.

Sediment track-out from the unpaved portions of the site is a potential realistic scenario. The facility has installed a total length of 32ft long track out grates (TOG) assembly which every truck needs to drive over before transitioning on the paved portions of the site. Furthermore, a regenerative sweeper will be operated at all times the facility is in operation to assure that sediment trackout is controlled at all times on the paved portions of the facility as well as onto the public driveway.



## APPEAL TO FINDINGS FOR A TEMPORARY ADMINISTRATIVE USE PERMIT

Below is the detailed factual appeal to the City of Hayward findings that demonstrates the City of Hayward denial to approve a temporary administrative use permit (Section 10-1.3125) was unfounded. Under each of the finding requirements is a brief summary of how project meets each of the findings and details the specific action appealed from and the specific ground of the appeal and the specific action sought (to continue operation).

*a. The proposed use is desirable for the public convenience or welfare.*

In February 2001, the City passed Ordinance No. 01-05, which requires 100 percent of concrete from demolition projects to be recycled; however, very few recycling facilities exists in the city of Hayward. This project provides a local option for construction contractors to recycle the concrete/asphalt they remove from demolition projects, which reduces traffic congestion on city streets, reduces wear and tear on regional roadways from heavy trucks, and reduce associated air pollution emissions. The proposed Type A inert recycling facility provides a convenience for local contractors and benefits to the welfare of the city by reducing traffic related to the transport of demolition materials to out-of-town facilities for recycling. If this facility were allowed to temporary be operated until the permanent state-of-the-art indoor facility is operational within the city limits, the City would also benefit from tax revenue generated from both the import and export of the Type A Inert materials. The Project's direct economic benefits include creating 10+ jobs, which generates a substantial amount of labor income. Moreover, the operator would interact with other local businesses to obtain necessary goods (e.g., raw materials, supplies, capital equipment) and services (e.g., accounting, trucking, maintenance) to maintain its operations. Similarly, the wages paid to project employees would be expended locally, which would result in a well-known employment multiplier effect. The finding can be made that the proposed use is desirable for public convenience or welfare.

=> After closer review on the CalRecycle website, there is not another 200,000+ ton Type A inert Recycling facility as the one currently operating at 24701 Clawiter Road in the City of Hayward.

=> The City of Hayward Roads and Maintenance division is a frequent customer at the facility, and clearly appreciates the fact that this facility is close-by, which as stated before minimizes traffic on the local roads.

==> The City's planning staff identifies that while an application was submitted for an Administrative Use Permit (AUP), **it was terminated for lack of action of the application. Which by the best of our understanding, as far as possible from the truth.** BACR personnel was told time and time again that this type of use "no longer" fits in with the Long Range Development Plans (LRP) for the area; while the parcel is zoned

for industrial purposes. As stated before in our the application package, more and more industrial areas in the City of Hayward are currently listed as Vacant.

==> The City's planning staff identifies that this Finding of *Desirable for the public convenience or welfare* is denied because of "dust not being controlled"; since dust is listed under Section 10-1.150. Unfortunately, "dust" is somewhat subjective; since the facility is operating under Bay Area Air Quality Management District (BAAQMD) permits there are specific thresholds and a specific set of actions that are listed the operator should maintain at all times (PERP permits are attached for Type A inert Crushing operations, Attachment A). By the best of our understanding, BAAQMD has not found a single instance of exceedance of dust emanating from the facility when following up on complaints (typically passed on by the City of Hayward, or specifically filed by the City of Hayward personnel, as stated by BAAQMD personnel and inspectors to BACR.)

==> The City's planning staff identifies that "site improvements necessary to ensure public safety and welfare have not been proposed as part of this temporary use application; nor would the temporary operation upgrade or improve the site to meet all local land use, regulatory and environmental regulations."

\* BACR and TBI Engineering are disappointed City of Hayward staff did not review in detail the application package submitted which clearly list the proposed improvements at the end of the application package, making a statement that no upgrades or improvements were contemplated for this Temporary AUP application is disappointing, as stated in the application package:

\* "This project still proposes to improve the existing street frontage by conforming to existing policies, removing the existing chain-link fence, and installing a 20-foot landscaping buffer with a decorative wall as shown on the plans to accommodate the temporary use. A licensed landscape architect will be hired to complete the frontage landscape improvements upon proceedance of the temporary permit and appropriate landscape and irrigation plan will be submitted."

\* As stated before and communicated to City of Hayward planning staff, to the best of BACR knowledge all environmental regulations are abided by; specifically, the facility has had multiple inspections by air board, waterboard, local enforcement agency, and the fire marshal to inspect and review the site in great detail. Besides the one single fine paid by BACR regarding sediment track-out to the City of Hayward for \$100 there have been no other fines issued against the facility since 2013 by other agencies as of July 23, 2018.

*b. The proposed temporary use will not impair the character and integrity of the zoning district and the surrounding area.*

This project still proposes to improve the existing street frontage by conforming to existing policies, removing the existing chain-link fence, and installing a 20-foot

landscaping buffer with a decorative wall. Considering that the eastern portion of the property will continue to be used as a truck storage and maintenance facility, the overall number of trucks entering and exiting the site will not substantially increase from existing conditions.

The type of use is consistent with surrounding industrial uses, which is dominated by heavy industry. The finding can be made that the proposed use will not impair the character and integrity of the zoning district and the surrounding areas, especially since it is temporary in nature **and will substantially improve the existing street frontage.**

==> The City's planning staff identifies "several complaints about environmental impacts related to air quality and water quality impacts"

The facility has all necessary air board and waterboard permits to operate the Type A inert recycling operations at 24701 Clawiter Road. The air board permits are attached in Attachment A and the waterboard permit is attached in Attachment B (with all necessary backup documentation available onto the SMARTs database (available on the web at <https://smarts.waterboards.ca.gov>).

==> Because of the likely extended timeline to transition to Depot road, BACR has applied for an Authority to Construct (ATC) recently at 24701 Clawiter recycling operation in addition to the in-place ATC at 3898 Depot Road.

==> Furthermore, statements made that "much of the site is unpaved" are just false. Specifically, as identified on the plans the eastern portion of the site is either asphaltic surface or concrete (attachment C shows an aerial identifying pavement, portions have been replaced by concrete given intense use). A detailed topographic survey can be completed to identify the exact amount of paved area (likely to be greater than 50% of the total site). Unfortunate due to the nature of incoming material, for most type A inert recycling facilities the raw material pile "changes in height daily", and as a result even the bottom of the pile would be paved or concrete, the traffic would inherently drive on crushed Type A inert materials given the nature of the industrial activities.

==> During waterboard visits, no issue have been identified regarding trackout from the site. Proactively, BACR has a regenerative sweeper running continuously to pick up any trackout from the site to control sediment trackout as observed by City personnel. It was noted that alongside Clawiter road, parking is still allowed and as a result optimal sweeping is difficult, if not impossible to complete since some of the car repair shops park their cars (to be repaired) there permanently.

==> The City's planning staff identifies the site is "surrounded principally by light industrial uses"; however, the neighbor to the north is one of the largest welding operations in the larger San Francisco East Bay, considered heavy industry.

==> The City's planning staff identifies "the operational nature of this heavy industrial use is "noisy"".



==> BACR is disappointed this statement is made without actual factual knowledge. The majority of City staff has been at the facility and the crushing operation is typically well contained regarding noise levels and meets the noise ordinance levels easy...as identified in the application package: The crushers and vibrating screen of the crushing and screening plant will also be a source of noise from the operation. However, based on reports by the equipment's manufacturer, that noise is dissipated to approximately 50 decibels at a distance of 200 feet away. Therefore the noise levels will be at/or below 50 decibels at the property line. Raw Material stockpiles and finished material stockpiles can be optimally situated to block noise from areas of concern.

==>The City's planning staff identifies "not proposing any measures to screen the piles from the street such as a high wall or trees:

==> Applicant proposed the following:

"This project still proposes to improve the existing street frontage by conforming to existing policies, removing the existing chain-link fence, and installing a 20-foot landscaping buffer with a decorative wall."

- \* BACR and TBI Engineering are disappointed City of Hayward staff did not review in detail the application package submitted which clearly list the proposed improvements at the end of the application package, making a statement that no upgrades or improvements were contemplated for this Temporary AUP application is extremely disappointing.

*c. The proposed use will not be detrimental to the public health, safety, or general welfare.*

The property on which the proposed facility will be developed is completely fenced and only authorized personnel will have access. The proposed temporary project fully mitigates any anticipated impacts to the surrounding environment with the development envelope. Dust, noise, and stormwater are properly controlled in conformity with state air and water laws and procedures. The project is proposed in the middle of an industrial zone, which is the most appropriate place for this type of use. No residences, schools, or hospitals are within a quarter mile of the proposed use, and people that work in the project vicinity understand the purpose and utility of the type of use that is proposed at the site. The project consists of the necessary access for emergency vehicles at 20 ft wide access road to the western portion of the facility which is maintained at all times. The finding can be made that the proposed use will not be detrimental to the public health, safety, or general welfare.

=>The City's planning staff identifies "concrete is being crushed and much of this particulate material, crystalline silica dust, is becoming airborne and creating a public health and safety issue.

=>> BACR and TBI Engineering are disappointed City of Hayward staff did not consult



regarding concrete crushing and the generation of silica dust. BACR and TBI Engineering have been monitoring for silica dust for quite a long time at the facility. The monitoring clearly resulted that the statement made by the City of Hayward is non-factual; and actually demonstrates that the measures that BACR has put in place, and reviewed by BAAQMD inspectors, actually control the dust to within the process of the crushing operation within it becoming airborne so the statement made that it is detrimental to public health and safety or general welfare is false.

=>>The City's planning staff identifies "that the concrete crushing facility has been operating without the necessary BAAQMD permit is incorrect and false. BAAQMD confirmed the BACR is operating the facility within the permit requirements it has for the equipment (Attachment C, inclusive of email by Troy Hash, BAAQMD inspector stating it is operating within the limits imposed by the PERP permits, attachment D, email by Tim Bauters and Troy Hash (BAAQMD). As identified before, BACR has proactively submitted the ATC at 24701 Clawiter Road, Hayward to continue beyond the 12 months limitation in mind.

*d. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.*

The purpose of the Industrial District, according to Section 10-1.1605 of the zoning ordinance, is to provide for and encourage the development of industrial uses in an area suitable for those uses and to promote a desirable and attractive working environment with a minimum of detriment to surrounding properties. To begin with, the project would be in harmony with all applicable City policies and requirements. The project would support green policies because it would provide a local facility to recycle demolition materials, which is an important part of the City's climate action plan and required under City Ordinance No. 01-05.

In terms of the project being in harmony with the intent and purpose of the zoning district, the project is positioned in the middle of an industrial district. The existing truck storage and maintenance facility is not currently screened from the public right-of-way. While the proposed use is industrial, it does not produce any hazardous waste. The use includes crushed broken concrete/asphalt (Type A inerts only) from local demolition projects and selling the materials as aggregate base rock for new development projects, thus reducing the demand of extracting native rock from regional surface mining operations. The finding can be made that the proposed temporary use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

=> **Land-use goals listed are for 2040**, the use of the temporary Type A inert recycling facility at 24701 Clawiter would be temporary in nature and would transition to depot

=>> Applicant proposed the following:

"This project still proposes to improve the existing street frontage by conforming to existing policies, removing the existing chain-link fence, and installing a 20-

foot landscaping buffer with a decorative wall.”

\* BACR and TBI Engineering are disappointed City of Hayward staff did not review in detail the application package submitted which clearly list the proposed improvements at the end of the application package, making a statement that no upgrades or improvements were contemplated for this Temporary AUP application is extremely disappointing

=> The City’s planning staff identifies at the end “In conclusion, the temporary and continued use of this land on the subject property would not be in harmony with adopted land use policies.”

\* Somehow the City does not fully comprehend this is a TEMPORARY application so that Bay Area Concrete Recycling can continue to operate a Type A Inert Recycling Facility -under defined City of Hayward conditions- on a portion of the property they lease from S&A Investment Holdings LLC (owner of the property) in the City of Hayward at 24701 Clawiter Road until a permanent enclosed state of the art Type A inert recycling facility is fully operational and permitted at 3898 Depot Road, Hayward; this mainly to guarantee the transition in operation happens in an orderly and controlled manner, especially to manage the +100,000 cubic yard of material accumulated at 24701 Clawiter Road.

## SUMMARY OF THE APPEAL

Bay Area Concrete Recycling appeals the decision of denial for BACR to request the issuance of a temporary administrative use permit to continue to operate a Type A Inert Recycling Facility on a portion of the property they lease from S&A Investment Holdings LLC (owner of the property) in the City of Hayward at 24701 Clawiter Road until a permanent enclosed state of the art Type A inert recycling facility is fully operational and permitted at 3898 Depot Road, Hayward; this mainly to guarantee the transition in operation happens in an orderly and controlled manner meeting all state and other regional permits.

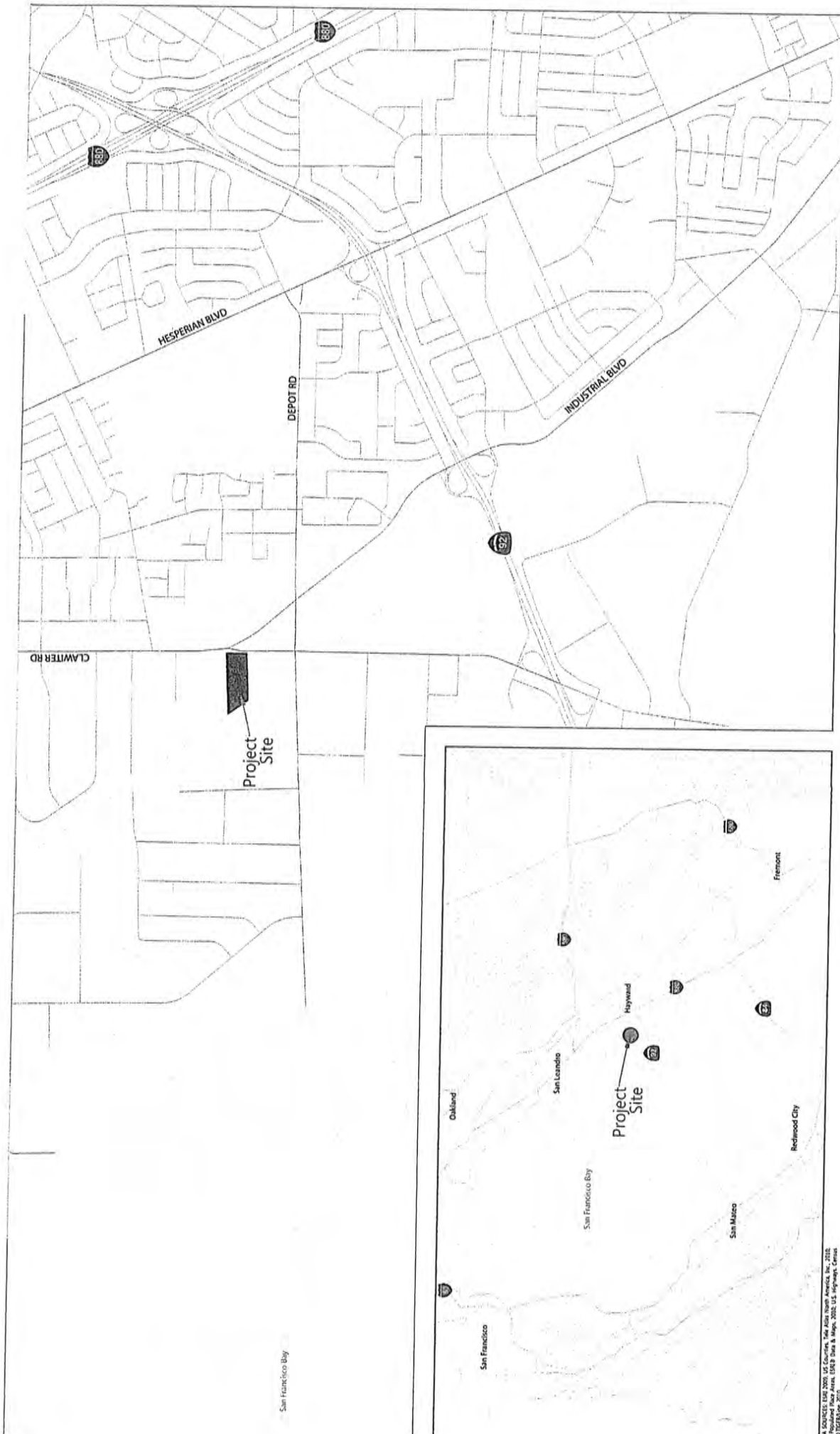
The above and attached documentation factually demonstrated that the proposed project meets the findings required to issue a temporary administrative use permit (Temporary Permit) by the planning director or planning commission, nevertheless we fully understand that City Staff has identified that the industrial area this project is located in an area being promoted as a biotech research and other research development uses. As of beginning July in visiting BACR site from State Route #92 via Clawiter Road from the south, **at least 35 Acres of development area was advertised for lease or sale.**

This project always proposed to improve the existing street frontage by conforming to existing policies, removing the existing chain-link fence, and installing a 20-foot landscaping buffer with a decorative wall as shown on the plans to accommodate the temporary use. A licensed landscape architect would be hired to complete the frontage landscape improvements upon proceedance of the temporary permit and appropriate landscape and irrigation plan will be submitted.

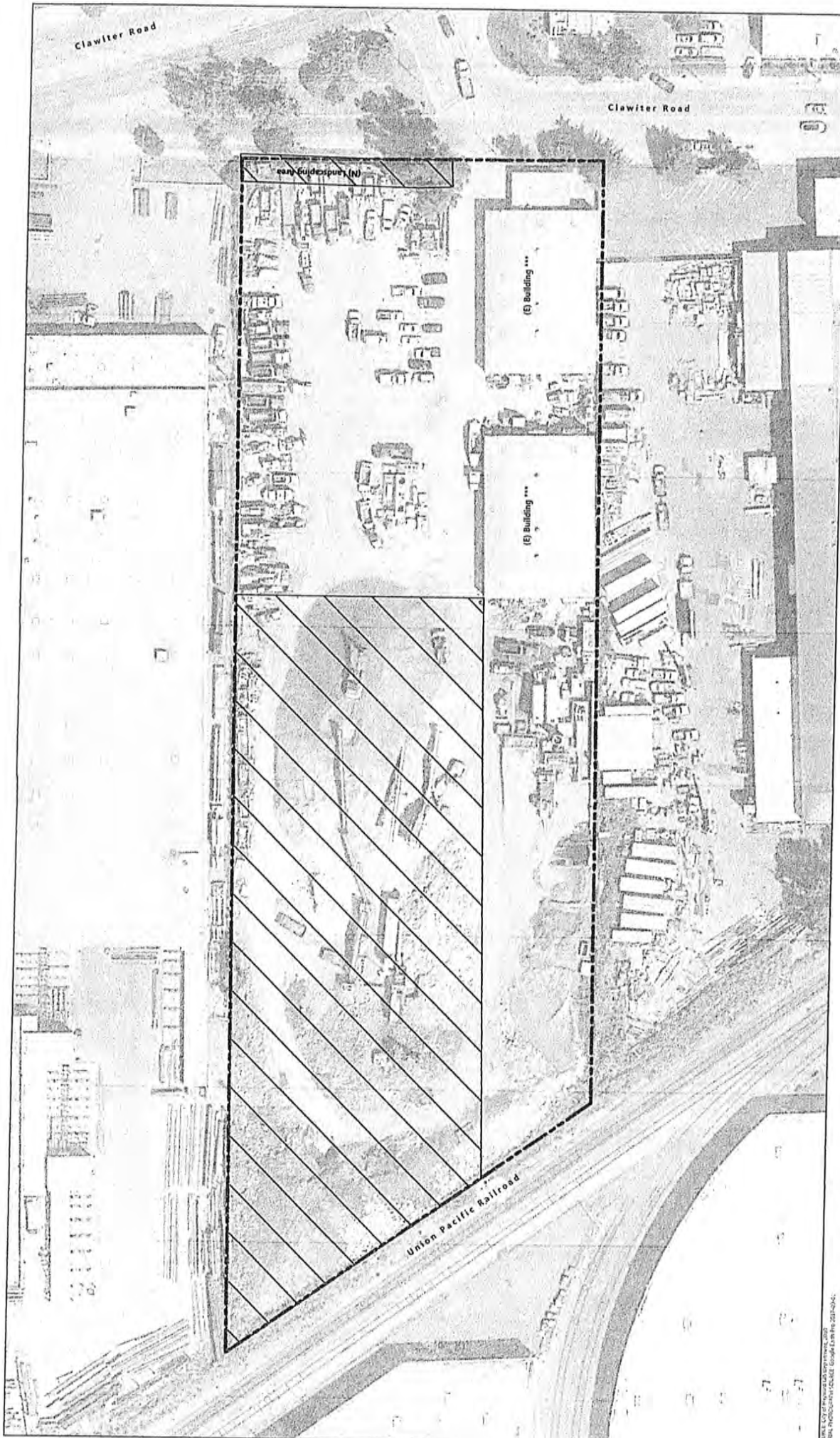
**FIGURES**

## ATTACHMENTS

**Site Location**  
BAY AREA CONCRETE RECYCLING  
Figure G1







**LEGEND**  
 --- Property Boundary  
 --- Area of Interest  
 Hatched Area

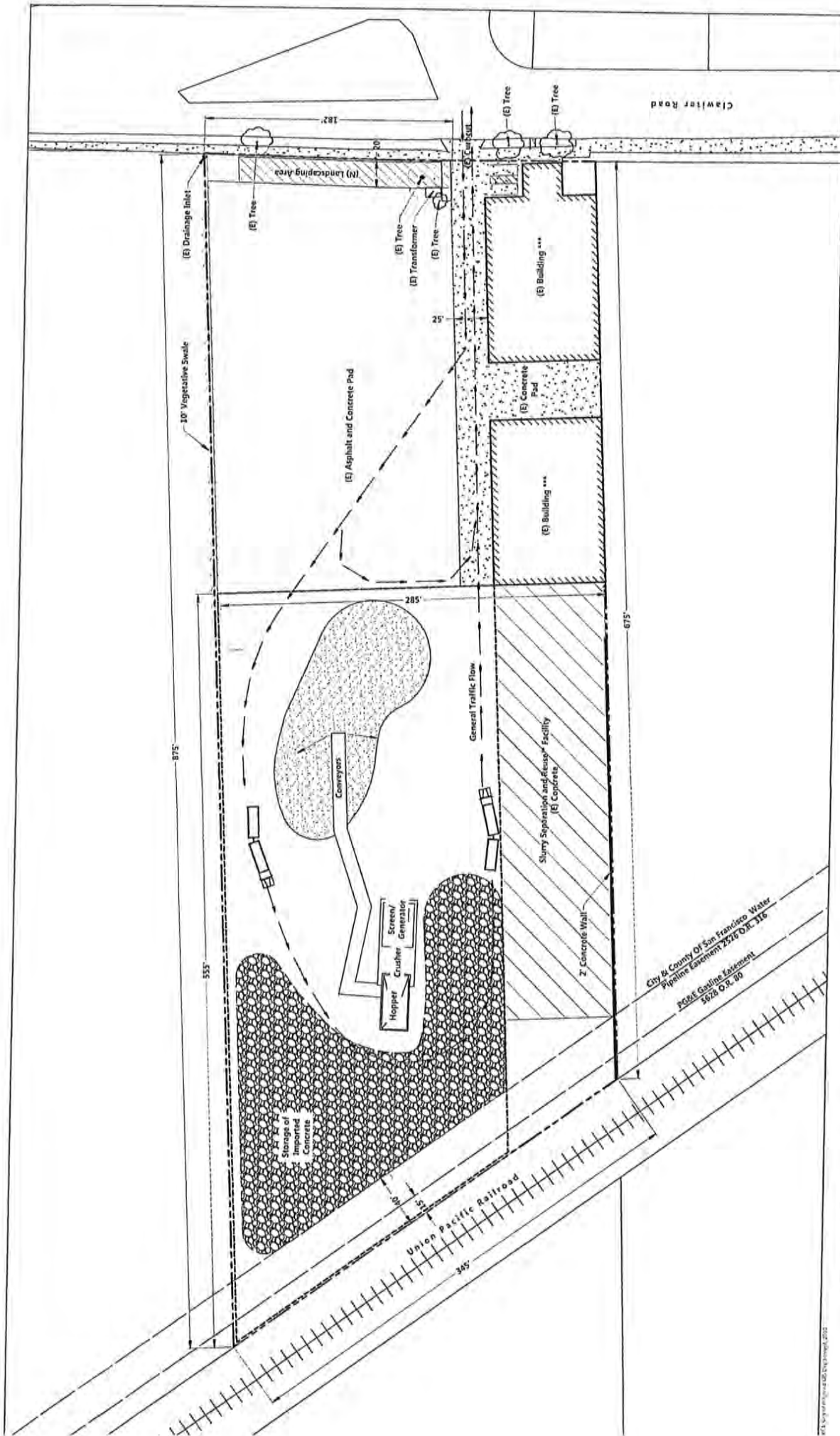
**Existing Conditions Aerial Photograph**  
 BAY AREA CONCRETE RECYCLING  
 Figure G2

**PROPERTY OWNER INFORMATION**  
 Property Owner: S & A Investment Holdings, LLC  
 Mailing Address: 2401 Clawiter Rd., Hayward, CA 94545-2225

**SITE INFORMATION**  
 430-0030-003-03  
 Zone: Industrial  
 General Plan: Industrial  
 Assessor's Parcel: 4.75 acres  
 Landscaping Area: 0.07 acres  
 Total Area of Interest: 215 acres

**Notes:**  
 \*\*\* See Figure G7 for detail.  
 (E) Existing  
 (N) New





**LEGEND**

- Property Boundary
- Concrete Recycling Facility
- Asphalt and Concrete Pad

**Facility Layout**

**BAY AREA CONCRETE RECYCLING**

Figure G3

**PROPERTY OWNER INFORMATION**  
 Property Owner: S & A Investment Holdings, LLC  
 Mailing Address: 24701 Clawiter Rd., Hayward, CA 94545-2215

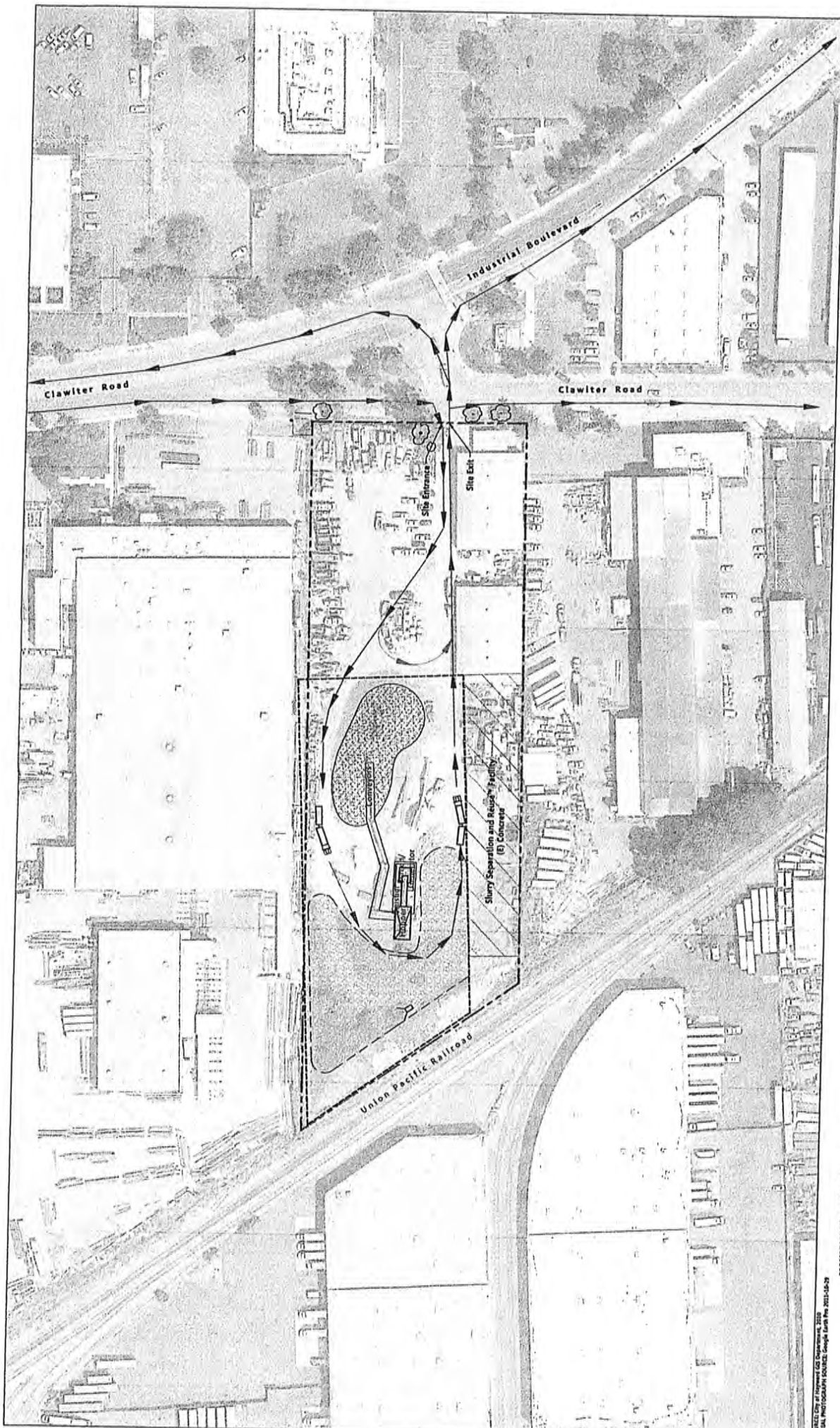
**SITE INFORMATION**  
 APN: 439-0020-002-03  
 Zoning: I (Industrial)  
 Current Use: Industrial  
 Assessed Lot Size: 4.36 Acres  
 Assessed Land Area: 0.07 Acres  
 Total Area of Interest: 2.15 acres



SEA Engineering, Inc. All Rights Reserved, 2012



**Traffic Flow**  
BAY AREA CONCRETE RECYCLING  
Figure G4



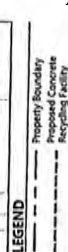
**LEGEND**  
 - - - Property Boundary  
 - - - Proposed Concrete Recycling Facility  
 - - - Traffic Flow

**PROPERTY OWNER INFORMATION**  
 Property Owner: S.R.A. Investment Holdings, LLC  
 Mailing Address: 24751 Clawiter Rd., Hayward, CA 94545-2225

**SITE INFORMATION**  
 Parcel: 005-003-003  
 Zoning: I-Industrial  
 General Plan: IC Industrial Corridor  
 Assessor Lot Size: 4.78 acres  
 Landscaping Area: 0.07 acres  
 Total Area of Interest: 2.13 acres

**TBI Engineering**  
 Scale: 1" = 100' Feet  
 Date: 10/1/2011

MAILED City of Hayward GIS Department 10/1/2011  
 MAIL PHOTOGRAPHY SOURCE: Google Earth Pro 2011-08-29



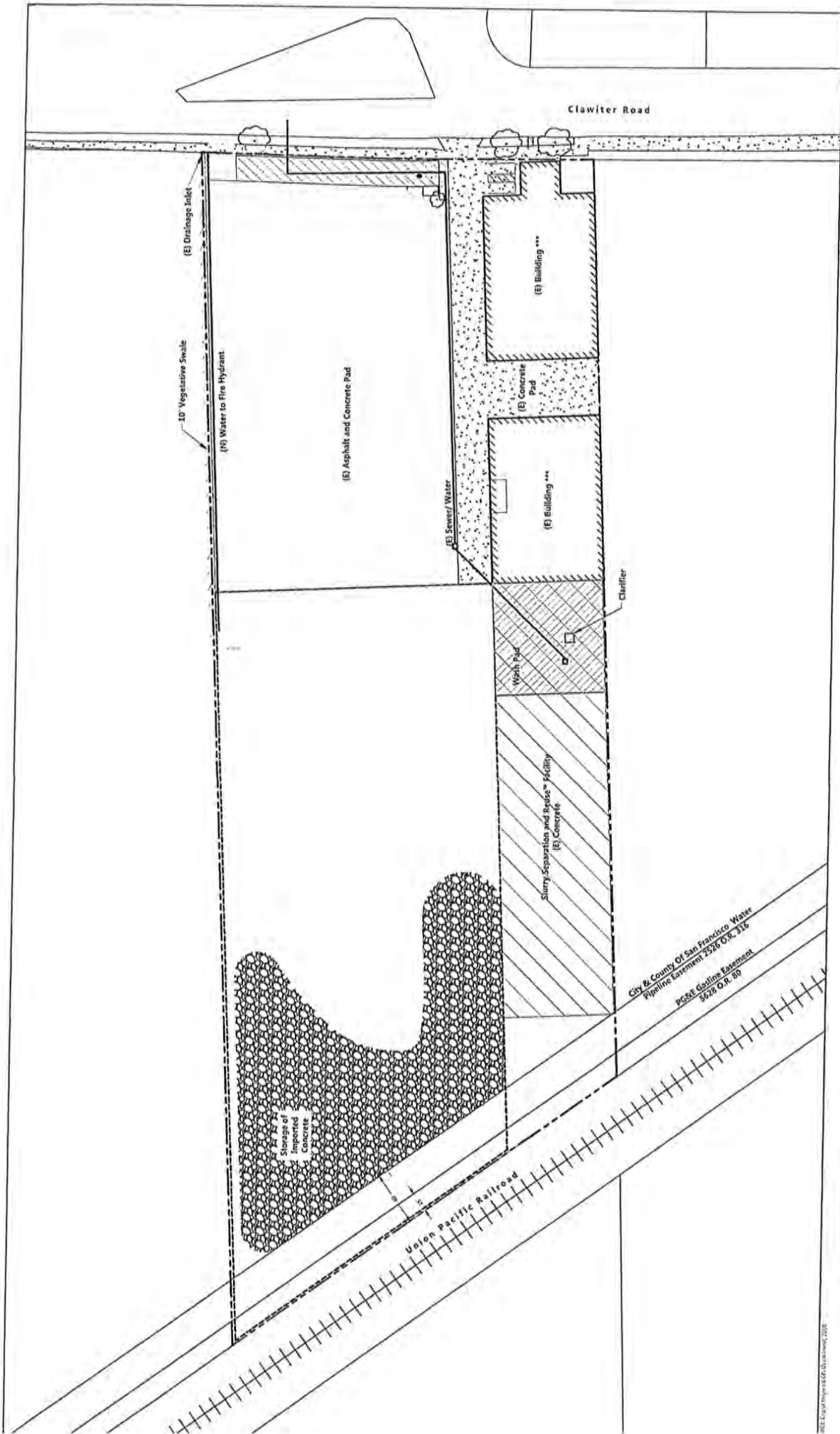
Notes:  
 \* See Stormwater Pollution Prevention Plan  
 \*\* Although not shown in aerial Figure G2, the east portion of the site was paved with asphalt during summer 2012.  
 \*\*\* See Figure G7 for detail.  
 [E] Existing  
 [N] New

<b>PROPERTY OWNER INFORMATION</b>	
Property Owner:	S & A Investment Holdings, LLC
Mailing Address:	32701 Clewiston Rd., Hayward, CA 94545-2725
<b>SITE INFORMATION</b>	
APN:	439-0036-002-03
Cons:	1 (Industrial)
General Plan:	IC (Industrial Corridor)
Assessor Plot Size:	4.76 acres
Zoning/Airport Ave:	0.07 acres
Total Area of Interest:	2.15 acres





**Utilities**  
BAY AREA CONCRETE RECYCLING  
Figure G6



**PROPERTY OWNER INFORMATION**  
Property Owner: S & A Investment Holdings, LLC  
Mailing Address: 24701 Clawiter Rd., Hayward, CA 94545-2225

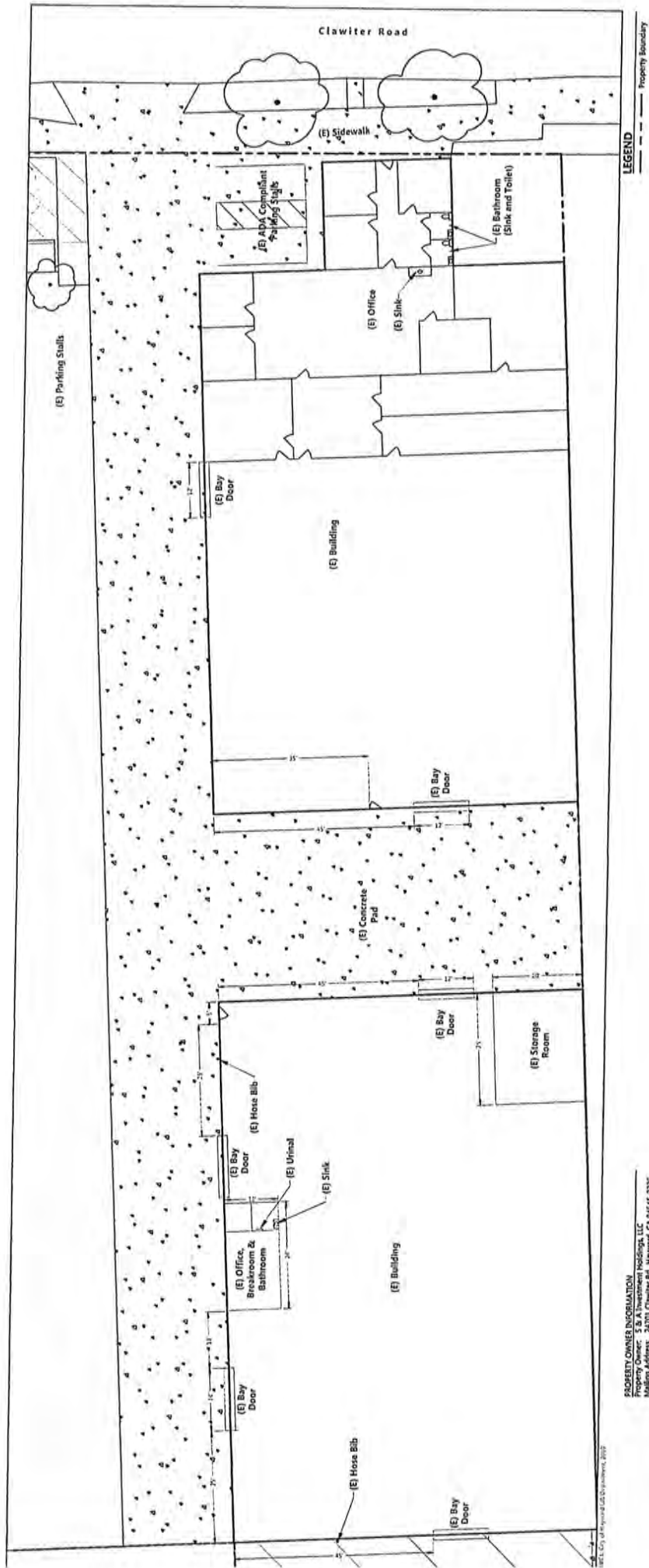
**SITE INFORMATION**  
APN: 428-0000-002-03  
Zoning: (Indiscernible)  
County: Alameda  
Assessor's Parcel Number: 428-0000-002-03  
Assessor's Lot Size: 4.76 acres  
Landscaping Area: 0.07 acres  
Total Area of Interest: 2.13 acres

**Notes:**  
\* Although not shown in aerial Figure G2, the east portion of the site was paved with asphalt during summer 2012.  
\*\* See Figure G7 for detail.  
(E) Existing  
(N) New



**LEGEND**

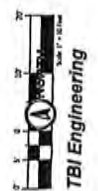
- Property Boundary
- Proposed Concrete Recycling Facility
- Utilities
- Asphalt and Concrete Pad



**Enlarged Building Details**  
BAY AREA CONCRETE RECYCLING  
Figure G7

**PROPERTY OWNER INFORMATION**  
Property Owner: S.A. A. Industries, LLC  
Property Address: 24701 Clawiter Rd., Hayward, CA 94545-2725  
Mailing Address: 24701 Clawiter Rd., Hayward, CA 94545-2725

**SEE INFORMATION**  
APN: 439-0005-001-03  
Zoning: I-1 (Industrial)  
General Plan: IC (Industrial Corridor)  
Assessor's Parcel Number: 439-0005-001-03  
Assessor's Lot Size: 4.36 acres  
Total Area of Interest: 2.15 acres



Notes:  
(A) Existing  
(P) New

**ATTACHMENTS**

**ATTACHMENT A**  
**PERP PERMITS ARE ATTACHED FOR TYPE A INERT CRUSHING BACR- HAYWARD**



Matthew Rodriguez  
Secretary for  
Environmental Protection

# Air Resources Board

Mary D. Nichols, Chair

1001 I Street · P.O. Box 2815  
Sacramento, California 95812 · [www.arb.ca.gov](http://www.arb.ca.gov)



Edmund G. Brown Jr.  
Governor

## Statewide Portable Equipment Registration

Registration No: 173997

Legal Owner or Operator:

Bay Area Concrete Recycling

Mailing Address:

P.O. Box 23424  
Oakland, CA 94623

Equipment Unit Description:

Portable crushing and screening plant, manufactured by Pioneer, model UR2854, serial no. 2054-DRUE-140, with a maximum throughput rating of 200 tons/hr and consisting of:

- (1) Vibrating Grizzly
- (1) Screen
- (1) Impact Crusher manufactured by Boringer, model RC-12, serial no. PBC-RC12-129-02
- (1) Jaw Crusher manufactured by Pioneer, model UR2854, serial no. 2054-DRUE-140
- (1) 30" 85 Radial Stack
- (1) 54" Under Screen Conveyor manufactured by Fab Tec
- (1) 48x35 Recycle Conveyor manufactured by Fab Tec, model 3054, serial no. PC-30-54-172-02
- (2) Conveyor

*Equipped with water sprays and onsite water truck.*

Conditions:

see attached

Home District:

Bay Area Air Quality Management District

Expiration Date: January 31, 2020



*Michael J. Guzzetta*

Michael J. Guzzetta  
Manager, Portable Equipment Registration Section  
Enforcement Division

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Website: <http://www.arb.ca.gov>.

California Environmental Protection Agency



## Statewide Portable Equipment Registration

**The following operating conditions apply for registration 173997**

Equipment Unit Serial No.: 2054-DRUE-140

### General Requirements

1. This registration is not valid for operation within the boundaries of the California Outer Continental Shelf and State Territorial Waters.
2. The equipment unit shall be properly maintained and kept in good operating condition at all times.
3. When changing equipment or operating scenario or number of transfer points such that it would necessitate a change in operating conditions, a complete application for modification is to be filed and approved by the Air Resources Board prior to operation.
4. The registration identification sticker shall be affixed in a visible location on the registered portable equipment unit at all times. The metal placard shall be securely affixed on a vertical surface of the portable equipment unit in a location that is readily visible from a distance. A legible copy of the registration certificate and operating conditions shall be kept on site with the portable equipment unit, and shall be made accessible to the Air Resources Board or district representative upon request.
5. The owner or operator must notify the United States Environmental Protection Agency and comply with 40 CFR 52.21 if:
  - a. the portable equipment unit is part of a facility defined as a major source under 40 CFR 51.166 or 52.21, and
    1. the facility is located within 10 kilometers of a Class I area; or
    2. the portable equipment unit, operating in conjunction with other registered portable equipment units, is part of a stationary source and would be defined as a major modification to the stationary source under 40 CFR 51.166 or 52.21; or
  - b. the portable equipment unit, operating in conjunction with other registered portable equipment units, would be defined as a major stationary source, as defined under 40 CFR 51.166 or 52.21.
6. The equipment unit and any replacement equipment unit shall not reside at the same location for more than 12 consecutive months.
7. The registration certificate is not valid for operation at any given location where a local air district has issued a permit to operate for the same equipment unit or where other air contaminant emitting equipment, excluding engines, is operating as a stationary source and the operation of this equipment unit would qualify as part of the stationary source. A stationary source is any building, structure, facility, or installation which emits any affected pollutant directly or as a fugitive emission. Building, structure, facility, or installation includes all pollutant emitting activities which are under the same ownership operation, or which are owned or operated by entities which are under common control; belong to the same two-digit standard industrial classification code or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material; and are located on one or more contiguous or adjacent properties.
8. The operation of this equipment unit shall not cause a public nuisance.
9. The portable equipment unit shall not be operated under both statewide registration and a district permit at any specific location.
10. When this equipment unit is sold, the new owner shall submit a change of ownership application within 30 days of the change in ownership. If an application is not received within 30 days of the ownership change, the existing registration is not valid for the new owner until the application has been filed and all applicable fees have been paid.
11. The owner/operator of this equipment unit shall contact the local air district prior to operation at an agricultural source.
12. The operator of a portable engine or equipment unit shall obtain district authorization prior to operation at any specific location where the Statewide registration is not valid.
13. Materials containing hazardous waste or materials that may potentially lead to emissions of toxic air contaminants shall not be processed by this unit. Hazardous wastes and toxic air contaminants are any substances that may cause or contribute to an increase in serious illness, or may pose a potential hazard to human health. Examples of such materials include, but are not limited to: wood railroad ties, serpentine rock, chemically treated wood, construction or demolition debris containing asbestos, and contaminated soil.
14. For each rental equipment unit or an equipment unit used in a third party rental transaction, the owner shall provide each person who rents the portable equipment unit with a copy of the registration certificate and operating conditions as part of the rental agreement.
15. For each rental equipment unit or an equipment unit used in a third party rental transaction, a written copy of the rental agreement or equivalent document must be kept onsite at all times.

**The following operating conditions apply for registration 173997**

Equipment Unit Serial No.: 2054-DRUE-140

**Emission Limitations**

16. There shall be no visible emissions beyond the property line on which the equipment is being operated.
17. No air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark or darker than Ringelmann 1 or equivalent 20 percent opacity.
18. Emissions shall not exceed 82 pounds per day of PM10.
19. Open areas shall be maintained adequately wet to prevent fugitive emissions in excess of 20 percent opacity or Ringelmann 1.
20. Emissions of particulate matter less than 10 microns (PM10), exclusive of emissions emitted directly from the associated portable engine, shall not exceed 10 tons per year per district.

**Operational Requirements**

21. Maximum daily throughput shall not exceed 2,300 tons per day when the equipment unit is operated by itself. When operating together with other equipment units as part of an onshore project, the daily throughput shall be tracked to ensure that total project PM10 emissions do not exceed 82 pounds per day. Compliance with this provision shall be determined daily by monitoring and recording total throughput of all registered equipment units operating as part of a project. Records shall include running totals of material throughput for each equipment unit multiplied by the corresponding PM10 emission factor included on each registration. The PM10 emission factor for this unit is 0.0345 pounds PM10 per ton of material processed. These records are to be made accessible to the Air Resources Board or district representative upon request. An onshore project is one or more registered engines or equipment units operated at one location under the same or common ownership or control, and used to perform a single activity.
22. Maximum annual throughput shall not exceed 580,000 tons per year.
23. Each crusher shall be equipped with water sprays.
24. All conveyors shall be covered, unless the material being transferred does not result in any visible particulate matter emissions.
25. Water sprays shall be used on all stockpiled material to control fugitive particulate matter emissions, unless the stockpiled material does not result in any visible particulate matter emissions.
26. All transfer points shall be equipped with water sprays to control fugitive particulate matter emissions, unless there are no visible emissions from the transfer point.
27. All roads subject to vehicular traffic shall be either paved or adequately watered to minimize fugitive particulate matter emissions.

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**~~NSPS Subpart OOO~~**

28. The equipment unit shall comply with the current federal New Source Performance Standards of Title 40, Code of Federal Regulations, Part 60, Subpart OOO.
29. No stack emissions of particulate matter in excess of 0.05 g/dscm (0.02 gr/dscf) shall be discharged into the atmosphere from any transfer point on belt conveyors or other affected facility. [Sec. 60.672(a)(1)]
30. No visible stack emissions greater than 7% opacity shall be discharged into the atmosphere from any transfer point on belt conveyors or other affected facility, unless the stack emissions are discharged from an affected facility using a wet scrubbing control device. [60.672(a)(2)]
31. No fugitive emissions greater than 10% opacity shall be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility, except for truck dumping into a screening operation, feed hopper, or crusher. [Sec. 60.672(b), (d)]
32. No fugitive emissions greater than 15% opacity shall be discharged into the atmosphere from any crusher without a capture system. [Sec. 60.672(c)]
33. No visible emissions shall be discharged into the atmosphere from wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors that process saturated material in the production line up to the next crusher, grinding mill, or storage bin. [Sec. 60.672(h)(1)]
34. Compliance with particulate matter and opacity standards shall be determined in accordance with Title 40, Code of Federal Regulations, Part 60, Subpart OOO.

**The following operating conditions apply for registration 173997**

Equipment Unit Serial No.: 2054-DRUE-140

**Recordkeeping**

35. While the equipment unit is out on rent, the rental customer shall record the specific location of the equipment unit each time it is moved to a new location (i.e. street address and city; or county and UTM coordinates; or other location indicator) in the written log provided by the owner.
36. While the equipment unit is out on rent, the rental customer shall record the amount of material throughput for each day of operation in the written log provided by the owner. The daily throughput shall be the sum of measurements of material introduced into the equipment unit by weight. For crushing or screening operations, the throughput measurements shall be taken at the initial loading point.
37. For a rental equipment unit or an equipment unit that is part of a third party rental transaction, the rental business shall provide a written log for recordkeeping purposes which is to be kept with the rental equipment unit at all times. The rental business shall keep records of the registration number of the equipment unit; date of the start and end of the rental transaction; and written (signed) acknowledgment by each renter of having received the registration certificate and operating conditions. The written log shall be maintained on an annual basis and previous annual logs shall be maintained at a central location for a minimum of five years, and made accessible to the Air Resources Board or districts upon request.
38. Records for the non-rental equipment unit shall include a log of date, registration number, the specific location (i.e. street address and city; or county and UTM coordinates; or other location indicator) each time the equipment unit is brought to a new location, type of material processed, and daily throughput of material processed. For crushing or screening operations, the throughput measurements shall be taken at the initial loading point.
39. All records shall be maintained at a central place of business for five years, and made accessible to the Executive Officer or district upon request.

**Reporting & Notification**

40. Within 5 days of a rental transaction exceeding 9 months in duration, a rental business or the owner of a registered equipment unit involved in a third party rental shall submit written notification of the rental transaction to the district in which the rental business is located. The notification shall include the equipment unit registration number, the rental customer telephone number and mailing address, and estimated location of the registered equipment unit.
41. The owner of a registered equipment unit shall provide the Air Resources Board with an annual report by March 1st after the end of the reporting year which is signed by the designated responsible official and consisting of: the reporting year, registration number of each equipment unit, and annual summaries by district of the total process weight or throughput.
42. If a registered portable equipment unit will be at a location for more than five days, the operator shall notify the district in writing within two working days of coming into the district. If the equipment unit is moved to different locations within the same district, the operator shall notify the district as above, unless the district and the equipment unit operator make alternative notification arrangements by mutual agreement. Notification shall include: the registration number of the equipment unit, name and phone of the responsible official, and estimated number of days the equipment unit will be located in the district. If the district has not been notified because the owner or operator did not expect the duration of operation to trigger notification, the operator shall notify the district within 12 hours of determining the portable equipment unit will be operating at a location for more than five days.
43. The owner of a registered portable equipment unit shall notify the Executive Officer in writing within five days of replacing the registered portable equipment unit with an identical replacement. The notification shall include: company name, responsible official, phone number, registration number, make, model, throughput, and description of the mechanical breakdown, serial number of the identical replacement, and applicable fees.

**The following operating conditions apply for registration 173997**

Equipment Unit Serial No.: 2054-DRUE-140

**Inspection Requirements**

44. Within 45 days after initial issuance or renewal of a registration, the owner or operator shall contact the home district to arrange for inspection to be completed within one year of the initial registration or renewal date. If the equipment unit is operating in a district other than the home district, the owner or operator may request the home district to arrange an inspection by that other district.
45. The time for the arranged inspection shall be agreed upon in advance between the district and the company. To the extent that an arranged inspection does not fall within the district's normal workday, the district may charge for the off-hour time.
46. If an arranged inspection does not occur due to unforeseen circumstances, the inspection shall be rescheduled for no later than 90 days from the initially scheduled inspection.
47. If the equipment unit is out of California for one year or more following initial registration or renewal, the equipment unit shall be excused from having the arranged inspection provided that within 45 days after the date of initial registration or renewal, the owner sends a letter to the district. Upon the return of the equipment unit to California, the owner shall arrange to have the equipment unit inspected within 30 days.





**Matthew Rodriguez**  
Secretary for  
Environmental Protection

## Air Resources Board

**Mary D. Nichols, Chair**

1001 I Street · P.O. Box 2815  
Sacramento, California 95812 · [www.arb.ca.gov](http://www.arb.ca.gov)



**Edmund G. Brown Jr.**  
Governor

January 10, 2017

Kevin Singh  
Bay Area Concrete Recycling  
P.O. Box 23424  
Oakland, CA 94623

Dear Kevin Singh:

**RE: Application # 38818 Action(s): Initial Registration**  
**ARB Staff Contact: Carol Carlson Phone: 916-229-0591**

We have completed the evaluation of your application for registration in the Statewide Portable Equipment Registration Program. Based on our evaluation, registration will be issued for the engine(s)/equipment unit(s) on the attachment.

Enclosed with this letter is a registration certificate, operating conditions, and a sticker for each engine/equipment unit listed. A copy of the registration certificate and operating conditions must be kept with the engine/equipment unit or on the immediate premises at all times. In addition, for each engine/equipment unit listed, a green metallic placard and a second sticker with placement instructions will be mailed separately with the registration application. Please place the sticker(s) included with this letter on the engine(s) or equipment unit(s) for which it was issued.

As a requirement of registration, the owner or operator of the registered portable engine/equipment unit may be subject to district inspection requirements if listed in the attached operating conditions. Please review the operating conditions immediately and carefully. If it is specified in the attached operating conditions, please contact the home district to arrange an inspection as required. Any violation of the operating conditions may result in enforcement action by either the districts or the Air Resources Board.

In addition, our evaluation shows that you have overpaid the registration fees by \$620. A check will be mailed under separate cover from our accounting office for the amount of the overpayment.

Please indicate your application number, listed above, on any future correspondence with us regarding the Statewide Registration Program. If you have any questions regarding your registration, please contact the ARB Contact listed at the top of this letter.

Sincerely,

Michael J. Guzzetta, Manager  
Portable Equipment Registration Section  
Enforcement Division

Attachment  
Enclosures

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Website: <http://www.arb.ca.gov>.*

California Environmental Protection Agency



## Attachment 1

Engines/Equipment Units listed under Application #38818

Description	Serial Number	Registration	ARB Tracking #
Sand & Gravel Screening and Rock Crushing-Crushing and screening plant	2054-DRUE-140	173997	20164622





**ATTACHMENT B  
EXISTING WATERBOARD PERMIT**



State Water Resources Control Board  
**NOTICE OF INTENT**  
 GENERAL PERMIT TO DISCHARGE STORM WATER  
 ASSOCIATED WITH INDUSTRIAL ACTIVITY (WQ ORDER No. 2014-0057-DWQ)  
 (Excluding Construction Activities)



EDMUND G. BROWN JR.  
GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

WDID: 2 011026068

Status: Active

Operator Information

Type: Private Business

Name: Bay Area Concrete LLC  
 Address: PO BOX 2613  
 Address 2: \_\_\_\_\_  
 City/State/Zip: Union City CA 94587  
 Federal Tax ID: \_\_\_\_\_

Contact Name: Kevin Olivero  
 Title: \_\_\_\_\_  
 Phone Number: 510-294-0220  
 Email Address: kevino@baconcrete.net

Facility Information

Level: \_\_\_\_\_

Contact Name: Kevin Olivero

Title: \_\_\_\_\_

Site Name: Slurry Waste Solutions

Address: 24701 Clawiter Road

City/State/Zip: Hayward CA 94545

Site Phone #: 510-294-0220

County: Alameda

Email Address: kevino@baconcrete.net

Latitude: 37.64087 Longitude: -122.12128

Site Size: 6400 Sq.Feet

Industrial Area Exposed to Storm Water: 4000 Sq.Feet

Percent of Site Impervious (Including Rooftops): 100 %

SIC Code Information

1. 9999 Nonclassifiable Establishments
2. \_\_\_\_\_
3. \_\_\_\_\_

Additional Information

Receiving Water: San Francisco Bay Flow: Indirectly

Storm Drain System: \_\_\_\_\_

Compliance Group: \_\_\_\_\_

RWQCB Jurisdiction: Region 2 - San Francisco Bay

Phone: 510-622-2300

Email: r2\_stormwater@waterboards.ca.gov

Certification

Name: Kevin Singh Date: August 20, 2015

Title: Manager



July 20, 2018

Kevin Olivero  
Bay Area Concrete LLC  
PO BOX 2613  
Union City, CA 94587

Facility Info: Slurry Waste Solutions  
24701 Clawiter Road  
Hayward, CA 94545  
SIC Code(s): 9999

Waste Discharge Identification Number: 2 011026068

Date Processed: September 01, 2015

#### RECEIPT OF YOUR NOTICE OF INTENT (NOI)

The State Water Resources Control Board (State Water Board) received and processed the NOI to comply with the terms of the General Permit for Storm Water Discharges Associated with Industrial Activity Order 2014-0057-DWQ.

Waste Discharger Identification (WDID) number 2 011026068 is assigned to the facility referenced above.

Accordingly, you are required to comply with all applicable permit requirements.

Notice of Termination (NOT) is required to be submitted to the State Water Board should the owner or operator of the facility change or upon closure of the facility. Until an NOT is submitted you will continue and are responsible to pay the annual fee invoiced each July.

If you have any further questions, please contact your local Regional Water Board at 510-622-2300.

Please visit the storm water web page at [www.waterboards.ca.gov/water\\_issues/programs/stormwater/industrial.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.shtml) for storm water related information.

Sincerely,  
Storm Water Program  
Division of Water Quality

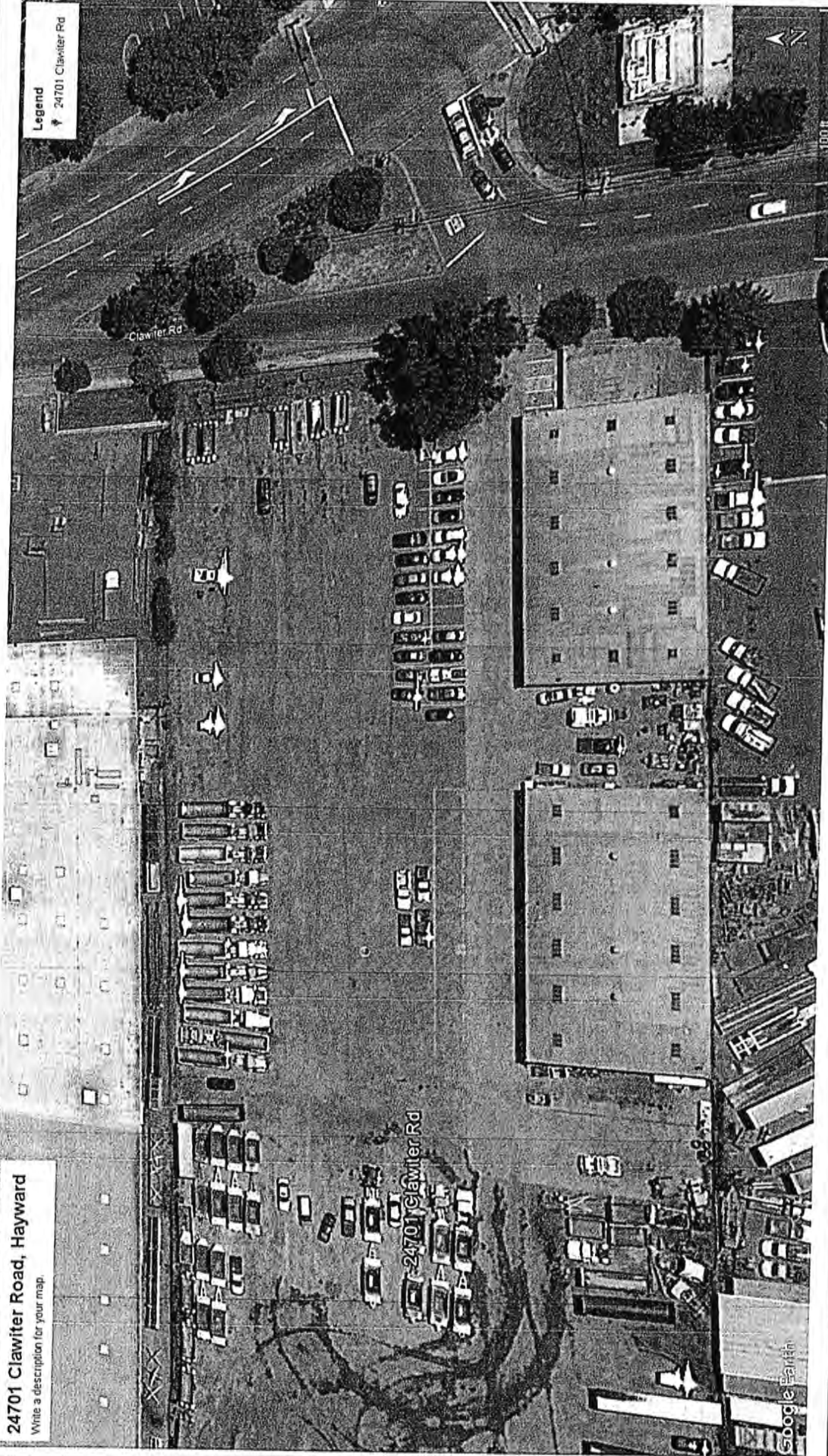
FELICIA MARCUS, CHAIR | EILEEN SOBECK, EXECUTIVE OFFICER

1001 I Street, PO Box 1977, Sacramento, California, 95812 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov), ph:1-866-563-3107, fax:(916) 341-5543

24701 Clawiter Road, Hayward

Write a description for your map.

Legend  
 24701 Clawiter Rd



## Aerial Identifying Pavement

TBI Engineering  
 480 Tan Oak Terrace  
 Sunnyvale, CA 94086

Drawn by: TB  
 Revised: 07/20/2018  
 Not to scale

24701 Clawiter Road, City of Hayward, CA

**ATTACHMENT D**  
**EMAIL BY TIM BAUTERS AND TROY HASH (BAAQMD ATTACHED)**



Tim Bauters <tim@baconcrete.net>

---

**Proposed meeting Monday, 10AM on March 19, 2018!**

---

Tim Bauters <tim@baconcrete.net>

To: Troy Hash <thash@baaqmd.gov>

Wed, Mar 14, 2018 at 5:51 PM

Cc: Kimberly Douglas <kimberly@baconcrete.net>

Troy-

I found some time to review the daily totals and summarize into a spreadsheet, please find attached for this particular crushing unit.

Let me know if this satisfies your needs, thank you, we can discuss on Monday if we need to fine-tune this spreadsheet.

Thank you,

Tim

[Quoted text hidden]



**Tons crushed in Hayward Mar 2017 to Mar 2018, Airboard Regulations.pdf**

108K

**Bay Area Concrete Recycling, LLC**  
**Portable Crusher Unit, Monthly Throughput in Tons**  
**Monthly Summaries February 2017 to 2018**

	Class II Base Rock	Drain Rock	Sand	Total Crushed Material per Month	PM10 Emissions (pounds)
Feb-17	12243	3175	2649	18068	623
Mar-17	14619	5034	3228	22881	789
Apr-17	13244	2614	1856	17714	611
May-17	17782	0	0	16728	577
Jun-17	17386	2515	1728	21629	746
Jul-17	16707	878	748	18333	632
Aug-17	19858	168	112	20138	695
Sep-17	15597	2464	2814	20875	720
Oct-17	20047	0	0	20047	692
Nov-17	15140	0	0	15140	522
Dec-17	0	0	0	0	0
Jan-18	16606	1952	1327	19885	686
Feb-18	15494	2281	1612	19386	669
<b>Total Annual Throughput Crusher</b>	<b>194724</b>	<b>21080</b>	<b>16073</b>	<b>230823</b>	<b>7963</b>

\* PM10 emissions calculated per multiplying the tons of material processed expressed in pounds



**Bay Area Concrete Recycling, LLC  
Portable Crusher, Monthly Throughput  
February 2017**

	<b>Class II Base Rock</b>	<b>Drain Rock</b>	<b>Sand</b>	<b>Total Crushed Material per Day</b>
Wednesday, February 1, 2017	877			877
Thursday, February 2, 2017		679	815	1494
Friday, February 3, 2017	866			866
Saturday, February 4, 2017				0
Sunday, February 5, 2017				0
Monday, February 6, 2017	<i>Rain</i>			0
Tuesday, February 7, 2017	<i>Rain</i>			0
Wednesday, February 8, 2017	866			866
Thursday, February 9, 2017	977			977
Friday, February 10, 2017	899			899
Saturday, February 11, 2017				0
Sunday, February 12, 2017				0
Monday, February 13, 2017	921			921
Tuesday, February 14, 2017	888			888
Wednesday, February 15, 2017	921			921
Thursday, February 16, 2017	1043			1043
Friday, February 17, 2017	921			921
Saturday, February 18, 2017				0
Sunday, February 19, 2017				0
Monday, February 20, 2017	1077			1077
Tuesday, February 21, 2017	155			155
Wednesday, February 22, 2017		521	281	802
Thursday, February 23, 2017		959	739	1698
Friday, February 24, 2017		1016	815	1831
Saturday, February 25, 2017				0
Sunday, February 26, 2017				0
Monday, February 27, 2017	910			910
Tuesday, February 28, 2017	921			921
<b>February, 2017 Total</b>	<b>12243</b>	<b>3175</b>	<b>2649</b>	<b>18068</b>

**Bay Area Concrete Recycling, LLC**  
**Portable Crusher, Monthly Throughput**  
**March 2017**

	Class II Base Rock	Drain Rock	Sand	Total Crushed Material per Day
Wednesday, March 1, 2017	1055			1055
Thursday, March 2, 2017	1010			1010
Friday, March 3, 2017	1010			1010
Saturday, March 4, 2017				0
Sunday, March 5, 2017				0
Monday, March 6, 2017	910			910
Tuesday, March 7, 2017	1077			1077
Wednesday, March 8, 2017	955			955
Thursday, March 9, 2017	966			966
Friday, March 10, 2017	1032			1032
Saturday, March 11, 2017				0
Sunday, March 12, 2017				0
Monday, March 13, 2017	932			932
Tuesday, March 14, 2017	977			977
Wednesday, March 15, 2017	944			944
Thursday, March 16, 2017	<i>No crushing today, Cleanup</i>			0
Friday, March 17, 2017	1066			1066
Saturday, March 18, 2017				0
Sunday, March 19, 2017				0
Monday, March 20, 2017	910			910
Tuesday, March 21, 2017	<i>Rain</i>			0
Wednesday, March 22, 2017		568	267	835
Thursday, March 23, 2017		982	664	1645
Friday, March 24, 2017		947	655	1602
Saturday, March 25, 2017				0
Sunday, March 26, 2017				0
Monday, March 27, 2017		620	264	884
Tuesday, March 28, 2017		1028	714	1742
Wednesday, March 29, 2017		889	664	1553
Thursday, March 30, 2017	844			844
Friday, March 31, 2017	932			932
<b>March 2017 Total</b>	<b>14619</b>	<b>5034</b>	<b>3228</b>	<b>22881</b>

**Bay Area Concrete Recycling, LLC  
Portable Crusher, Monthly Throughput  
April 2017**

	Class II Base Rock	Drain Rock	Sand	Total Crushed Material per Day
Saturday, April 1, 2017				0
Sunday, April 2, 2017				0
Monday, April 3, 2017	1043			1043
Tuesday, April 4, 2017		627	294	921
Wednesday, April 5, 2017		912	798	1710
Thursday, April 6, 2017		1074	764	1839
Friday, April 7, 2017	833			833
Saturday, April 8, 2017				0
Sunday, April 9, 2017				0
Monday, April 10, 2017	966			966
Tuesday, April 11, 2017	888			888
Wednesday, April 12, 2017	921			921
Thursday, April 13, 2017	988			988
Friday, April 14, 2017	999			999
Saturday, April 15, 2017				0
Sunday, April 16, 2017				0
Monday, April 17, 2017	<i>No Crushing, moving conveyors</i>			0
Tuesday, April 18, 2017	<i>No Crushing, moving conveyors</i>			0
Wednesday, April 19, 2017	1055			1055
Thursday, April 20, 2017	833			833
Friday, April 21, 2017	168			168
Saturday, April 22, 2017				0
Sunday, April 23, 2017				0
Monday, April 24, 2017	833			833
Tuesday, April 25, 2017	955			955
Wednesday, April 26, 2017	1032			1032
Thursday, April 27, 2017	899			899
Friday, April 28, 2017	833			833
Saturday, April 29, 2017				0
Sunday, April 30, 2017				0
<b>April 2017 Total</b>	<b>13244</b>	<b>2614</b>	<b>1856</b>	<b>17714</b>

**Bay Area Concrete Recycling, LLC**  
**Portable Crusher, Monthly Throughput**  
**May 2017**

	Class II Base Rock	Drain Rock	Sand	Total Crushed Material per Day
Monday, May 1, 2017	833			833
Tuesday, May 2, 2017	977			977
Wednesday, May 3, 2017	833			833
Thursday, May 4, 2017	988			988
Friday, May 5, 2017	921			921
Saturday, May 6, 2017				0
Sunday, May 7, 2017				0
Monday, May 8, 2017	932			932
Tuesday, May 9, 2017	<i>Crusher repairs</i>			0
Wednesday, May 10, 2017	<i>Crusher repairs</i>			0
Thursday, May 11, 2017	<i>Crusher repairs</i>			0
Friday, May 12, 2017	<i>Crusher repairs</i>			0
Saturday, May 13, 2017				0
Sunday, May 14, 2017				0
Monday, May 15, 2017	1032			1032
Tuesday, May 16, 2017	966			966
Wednesday, May 17, 2017	833			833
Thursday, May 18, 2017	932			932
Friday, May 19, 2017	1066			1066
Saturday, May 20, 2017				0
Sunday, May 21, 2017				0
Monday, May 22, 2017	932			932
Tuesday, May 23, 2017	921			921
Wednesday, May 24, 2017	921			921
Thursday, May 25, 2017	844			844
Friday, May 26, 2017	877			877
Saturday, May 27, 2017				0
Sunday, May 28, 2017				0
Monday, May 29, 2017	977			977
Tuesday, May 30, 2017	1055			866
Wednesday, May 31, 2017	944			944
<b>May 2017 Total</b>	<b>17782</b>	<b>0</b>	<b>0</b>	<b>16728</b>

**Bay Area Concrete Recycling, LLC**  
**Portable Crusher, Monthly Throughput**  
**June 2017**

	Class II Base Rock	Drain Rock	Sand	Total Crushed Material per Day
Thursday, June 1, 2017	899			899
Friday, June 2, 2017	910			910
Saturday, June 3, 2017				0
Sunday, June 4, 2017				0
Monday, June 5, 2017	No Crushing			0
Tuesday, June 6, 2017	No Crushing			0
Wednesday, June 7, 2017	1010			1010
Thursday, June 8, 2017	921			921
Friday, June 9, 2017	1032			1032
Saturday, June 10, 2017	988			988
Sunday, June 11, 2017				0
Monday, June 12, 2017		528	317	845
Tuesday, June 13, 2017		1016	739	1756
Wednesday, June 14, 2017		970	672	1642
Thursday, June 15, 2017	988			988
Friday, June 16, 2017	977			977
Saturday, June 17, 2017	999			999
Sunday, June 18, 2017				0
Monday, June 19, 2017	1032			1032
Tuesday, June 20, 2017	866			866
Wednesday, June 21, 2017	148			148
Thursday, June 22, 2017	866			866
Friday, June 23, 2017	1043			1043
Saturday, June 24, 2017				0
Sunday, June 25, 2017				0
Monday, June 26, 2017	855			855
Tuesday, June 27, 2017	1077			1077
Wednesday, June 28, 2017	1032			1032
Thursday, June 29, 2017	844			844
Friday, June 30, 2017	899			899
<b>June, 2017 Total</b>	<b>17386</b>	<b>2515</b>	<b>1728</b>	<b>21629</b>

**Bay Area Concrete Recycling, LLC**  
**Portable Crusher, Monthly Throughput**  
**July 2017**

	Class II Base Rock	Drain Rock	Sand	Total Crushed Material per Day
Saturday, July 1, 2017				0
Sunday, July 2, 2017				0
Monday, July 3, 2017	944			944
Tuesday, July 4, 2017	<i>Holiday</i>			0
Wednesday, July 5, 2017	844			844
Thursday, July 6, 2017	866			866
Friday, July 7, 2017	<i>No crushing</i>			0
Saturday, July 8, 2017				0
Sunday, July 9, 2017				0
Monday, July 10, 2017	866			866
Tuesday, July 11, 2017	1010			1010
Wednesday, July 12, 2017	977			977
Thursday, July 13, 2017	1010			1010
Friday, July 14, 2017	1077			1077
Saturday, July 15, 2017				0
Sunday, July 16, 2017				0
Monday, July 17, 2017	910			910
Tuesday, July 18, 2017	1021			1021
Wednesday, July 19, 2017	1010			1010
Thursday, July 20, 2017	988			988
Friday, July 21, 2017	1055			1055
Saturday, July 22, 2017				0
Sunday, July 23, 2017				0
Monday, July 24, 2017	955			955
Tuesday, July 25, 2017	877			877
Wednesday, July 26, 2017	1077			1077
Thursday, July 27, 2017	1066			1066
Friday, July 28, 2017	157			157
Saturday, July 29, 2017				0
Sunday, July 30, 2017				0
Monday, July 31, 2017		878	748	1625
<b>July 2017 Total</b>	<b>16707</b>	<b>878</b>	<b>748</b>	<b>18333</b>



**Bay Area Concrete Recycling, LLC**  
**Portable Crusher, Monthly Throughput**  
**August 2017**

	Class II Base Rock	Drain Rock	Sand	Total Crushed Material per Day
Tuesday, August 1, 2017		168	112	280
Wednesday, August 2, 2017	1066			1066
Thursday, August 3, 2017	877			877
Friday, August 4, 2017	888			888
Saturday, August 5, 2017				0
Sunday, August 6, 2017				0
Monday, August 7, 2017	888			888
Tuesday, August 8, 2017	977			977
Wednesday, August 9, 2017	966			966
Thursday, August 10, 2017	988			988
Friday, August 11, 2017	888			888
Saturday, August 12, 2017				0
Sunday, August 13, 2017				0
Monday, August 14, 2017	1032			1032
Tuesday, August 15, 2017	877			877
Wednesday, August 16, 2017	899			899
Thursday, August 17, 2017	899			899
Friday, August 18, 2017	1032			1032
Saturday, August 19, 2017				0
Sunday, August 20, 2017				0
Monday, August 21, 2017	944			944
Tuesday, August 22, 2017	944			944
Wednesday, August 23, 2017	932			932
Thursday, August 24, 2017	No crushing, cleanup			0
Friday, August 25, 2017	833			833
Saturday, August 26, 2017				0
Sunday, August 27, 2017				0
Monday, August 28, 2017	1077			1077
Tuesday, August 29, 2017	910			910
Wednesday, August 30, 2017	966			966
Thursday, August 31, 2017	977			977
<b>August 2017 Total</b>	<b>19858</b>	<b>168</b>	<b>112</b>	<b>20138</b>



**Bay Area Concrete Recycling, LLC**  
**Portable Crusher, Monthly Throughput**  
**September 2017**

	Class II Base Rock	Drain Rock	Sand	Total Crushed Material per Day
Friday, September 1, 2017	999			999
Saturday, September 2, 2017		546	689	1235
Sunday, September 3, 2017	1066			1066
Monday, September 4, 2017	<i>closed labor day</i>			0
Tuesday, September 5, 2017				0
Wednesday, September 6, 2017	866			866
Thursday, September 7, 2017	1010			1010
Friday, September 8, 2017		602	672	1274
Saturday, September 9, 2017				0
Sunday, September 10, 2017				0
Monday, September 11, 2017		644	722	1366
Tuesday, September 12, 2017		672	731	1403
Wednesday, September 13, 2017	1032			1032
Thursday, September 14, 2017	1032			1032
Friday, September 15, 2017	977			977
Saturday, September 16, 2017				0
Sunday, September 17, 2017				0
Monday, September 18, 2017	966			966
Tuesday, September 19, 2017	921			921
Wednesday, September 20, 2017	910			910
Thursday, September 21, 2017	157			157
Friday, September 22, 2017	1010			1010
Saturday, September 23, 2017				0
Sunday, September 24, 2017				0
Monday, September 25, 2017	877			877
Tuesday, September 26, 2017	1032			1032
Wednesday, September 27, 2017	855			855
Thursday, September 28, 2017	1043			1043
Friday, September 29, 2017	844			844
Saturday, September 30, 2017				0
<b>September 2017 Total</b>	<b>15597</b>	<b>2464</b>	<b>2814</b>	<b>20875</b>

**Bay Area Concrete Recycling, LLC**  
**Portable Crusher, Monthly Throughput**  
**October 2017**

	Class II Base Rock	Drain Rock	Sand	Total Crushed Material per Day
Sunday, October 1, 2017				0
Monday, October 2, 2017	1043			1043
Tuesday, October 3, 2017	855			855
Wednesday, October 4, 2017	999			999
Thursday, October 5, 2017	899			899
Friday, October 6, 2017	999			999
Saturday, October 7, 2017				0
Sunday, October 8, 2017				0
Monday, October 9, 2017	1043			1043
Tuesday, October 10, 2017	866			866
Wednesday, October 11, 2017	888			888
Thursday, October 12, 2017	1021			1021
Friday, October 13, 2017	932			932
Saturday, October 14, 2017				0
Sunday, October 15, 2017				0
Monday, October 16, 2017	866			866
Tuesday, October 17, 2017	1032			1032
Wednesday, October 18, 2017	999			999
Thursday, October 19, 2017	833			833
Friday, October 20, 2017	977			977
Saturday, October 21, 2017				0
Sunday, October 22, 2017				0
Monday, October 23, 2017	1010			1010
Tuesday, October 24, 2017	<i>Crusher need repair</i>			0
Wednesday, October 25, 2017	1055			1055
Thursday, October 26, 2017	955			955
Friday, October 27, 2017	877			877
Saturday, October 28, 2017				0
Sunday, October 29, 2017				0
Monday, October 30, 2017	833			833
Tuesday, October 31, 2017	1066			1066
<b>October, 2017 Total</b>	<b>20047</b>	<b>0</b>	<b>0</b>	<b>20047</b>

**Bay Area Concrete Recycling, LLC**  
**Portable Crusher, Monthly Throughput**  
**November 2017**

	Class II Base Rock	Drain Rock	Sand	Total Crushed Material per Day
Wednesday, November 1, 2017	910			910
Thursday, November 2, 2017	866			866
Friday, November 3, 2017	<i>Crusher in repair</i>			0
Saturday, November 4, 2017				0
Sunday, November 5, 2017				0
Monday, November 6, 2017	966			966
Tuesday, November 7, 2017	1077			1077
Wednesday, November 8, 2017	1055			1055
Thursday, November 9, 2017	1066			1066
Friday, November 10, 2017	1032			1032
Saturday, November 11, 2017				0
Sunday, November 12, 2017				0
Monday, November 13, 2017	1021			1021
Tuesday, November 14, 2017	855			855
Wednesday, November 15, 2017	899			899
Thursday, November 16, 2017	rain			0
Friday, November 17, 2017	1066			1066
Saturday, November 18, 2017				0
Sunday, November 19, 2017				0
Monday, November 20, 2017	921			921
Tuesday, November 21, 2017	855			855
Wednesday, November 22, 2017	833			833
Thursday, November 23, 2017	844			844
Friday, November 24, 2017	877			877
Saturday, November 25, 2017				0
Sunday, November 26, 2017				0
Monday, November 27, 2017	<i>Demobilize all equipment</i>			0
Tuesday, November 28, 2017	<i>Demobilized all equipment</i>			0
Wednesday, November 29, 2017	<i>Demobilized all equipment</i>			0
Thursday, November 30, 2017	<i>Demobilized all equipment</i>			0
<b>November 2017 Total</b>	<b>15140</b>	<b>0</b>	<b>0</b>	<b>15140</b>

**Bay Area Concrete Recycling, LLC**  
**Portable Crusher, Monthly Throughput**  
**December 2017**

	Class II Base Rock	Drain Rock	Sand	Total Crushed Material per Day
Friday, December 1, 2017	Demobilized all equipment			0
Saturday, December 2, 2017	Demobilized all equipment			0
Sunday, December 3, 2017	Demobilized all equipment			0
Monday, December 4, 2017	Demobilized all equipment			0
Tuesday, December 5, 2017	Demobilized all equipment			0
Wednesday, December 6, 2017	Demobilized all equipment			0
Thursday, December 7, 2017	Demobilized all equipment			0
Friday, December 8, 2017	Demobilized all equipment			0
Saturday, December 9, 2017	Demobilized all equipment			0
Sunday, December 10, 2017	Demobilized all equipment			0
Monday, December 11, 2017	Demobilized all equipment			0
Tuesday, December 12, 2017	Demobilized all equipment			0
Wednesday, December 13, 2017	Demobilized all equipment			0
Thursday, December 14, 2017	Demobilized all equipment			0
Friday, December 15, 2017	Demobilized all equipment			0
Saturday, December 16, 2017	Demobilized all equipment			0
Sunday, December 17, 2017	Demobilized all equipment			0
Monday, December 18, 2017	Demobilized all equipment			0
Tuesday, December 19, 2017	Demobilized all equipment			0
Wednesday, December 20, 2017	Demobilized all equipment			0
Thursday, December 21, 2017	Demobilized all equipment			0
Friday, December 22, 2017	Demobilized all equipment			0
Saturday, December 23, 2017	closed Holiday			0
Sunday, December 24, 2017	closed Holiday			0
Monday, December 25, 2017	closed Holiday			0
Tuesday, December 26, 2017	Demobilized all equipment			0
Wednesday, December 27, 2017	Demobilized all equipment			0
Thursday, December 28, 2017	Demobilized all equipment			0
Friday, December 29, 2017	Demobilized all equipment			0
Saturday, December 30, 2017	Demobilized all equipment			0
Sunday, December 31, 2017	closed Holiday			0
<b>December, 2017 Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Bay Area Concrete Recycling, LLC**  
**Portable Crusher, Monthly Throughput**  
**January 2018**

	Class II Base Rock	Drain Rock	Sand	Total Crushed Material per Day
Monday, January 1, 2018	<i>holiday</i>			0
Tuesday, January 2, 2018	<i>mobilized equipment back to 24701 Clawiter</i>			0
Wednesday, January 3, 2018	1010			1010
Thursday, January 4, 2018	866			866
Friday, January 5, 2018	1077			1077
Saturday, January 6, 2018				0
Sunday, January 7, 2018				0
Monday, January 8, 2018	<i>rain</i>			0
Tuesday, January 9, 2018	877			877
Wednesday, January 10, 2018	844			844
Thursday, January 11, 2018	899			899
Friday, January 12, 2018	977			977
Saturday, January 13, 2018				0
Sunday, January 14, 2018				0
Monday, January 15, 2018	944			944
Tuesday, January 16, 2018	1043			1043
Wednesday, January 17, 2018	988			988
Thursday, January 18, 2018	999			999
Friday, January 19, 2018	1066			1066
Saturday, January 20, 2018				0
Sunday, January 21, 2018				0
Monday, January 22, 2018	<i>rain</i>			0
Tuesday, January 23, 2018	1043			1043
Wednesday, January 24, 2018	1032			1032
Thursday, January 25, 2018	1055			1055
Friday, January 26, 2018	955			955
Saturday, January 27, 2018				0
Sunday, January 28, 2018				0
Monday, January 29, 2018		1040	680	1720
Tuesday, January 30, 2018		912	647	1559
Wednesday, January 31, 2018	932			932
<b>January 2018 Total</b>	<b>16606</b>	<b>1952</b>	<b>1327</b>	<b>19885</b>

**Bay Area Concrete Recycling, LLC  
Portable Crusher, Monthly Throughput  
February 2018**

	<b>Class II Base Rock</b>	<b>Drain Rock</b>	<b>Sand</b>	<b>Total Crushed Material per Day</b>
Thursday, February 1, 2018	988			988
Friday, February 2, 2018		672	655	1327
Saturday, February 3, 2018				0
Sunday, February 4, 2018				0
Monday, February 5, 2018	1032			1032
Tuesday, February 6, 2018	1010			1010
Wednesday, February 7, 2018	955			955
Thursday, February 8, 2018	866			866
Friday, February 9, 2018	921			921
Saturday, February 10, 2018				0
Sunday, February 11, 2018				0
Monday, February 12, 2018	855			855
Tuesday, February 13, 2018	966			966
Wednesday, February 14, 2018	910			910
Thursday, February 15, 2018	844			844
Friday, February 16, 2018	1043			1043
Saturday, February 17, 2018				0
Sunday, February 18, 2018				0
Monday, February 19, 2018	866			866
Tuesday, February 20, 2018	1077			1077
Wednesday, February 21, 2018	165			165
Thursday, February 22, 2018		581	251	832
Friday, February 23, 2018		1028	706	1734
Saturday, February 24, 2018				0
Sunday, February 25, 2018				0
Monday, February 26, 2018	921			921
Tuesday, February 27, 2018	1066			1066
Wednesday, February 28, 2018	1010			1010
<b>February, 2018 Total</b>	<b>15494</b>	<b>2281</b>	<b>1612</b>	<b>19386</b>





Tim Bauters <tim@baconcrete.net>

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**Proposed meeting Monday, 10AM on March 19, 2018!**

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Troy Hash <thash@baaqmd.gov>  
To: Tim Bauters <tim@baconcrete.net>

Thu, Mar 15, 2018 at 10:49 AM

Hi Tim,

The format is very nice. The only thing I would add is a column to the right of the 'Total Crushed Material per Day' on the 'Monthly Throughput' that calculates the daily PM10, since you have a limit of 82 lbs/day. That would make it very easy to spot check.

Sincerely, Troy

**From:** Tim Bauters [mailto:tim@baconcrete.net]  
**Sent:** Wednesday, March 14, 2018 5:51 PM  
**To:** Troy Hash <thash@baaqmd.gov>  
**Cc:** Kimberly Douglas <kimberly@baconcrete.net>  
**Subject:** Re: Proposed meeting Monday, 10AM on March 19, 2018!

[Quoted text hidden]



**ATTACHMENT B**  
**AUP PL-2014-0225**

**CITY OF HAYWARD  
PLANNING DIVISION  
ADMINISTRATIVE USE PERMIT APPLICATION  
May 1, 2015**



**Administrative Use Permit PL-2014-0225 – Kevin Singh (Applicant/Owner)** – Request to operate an outdoor concrete recycling facility.

The property is located at 3890 & 3898 Depot Road in the Industrial (I) Zoning District (APN: 439-0070-013-01 and 439-0070-014-00).

The Concrete Recycling Facility shall operate according to these conditions of approval and the plans labeled Exhibit "A". This approval is void three years after the effective date of approval unless a building permit application has been submitted and accepted for processing by the Building Official. Any modification to this permit shall require review and approval by the Planning Director. Unless a new permit is issued within 180 days of permit expiration, revocation or abandonment, all improvements installed, including their foundation shall be removed from the property and the site restored to its natural pre-construction state. Violation of these conditions or requirements will result in enforcement action by the Code Enforcement Division. Enforcement includes, but is not limited to fines, fees/penalties, special assessment, liens, or any other legal remedy required to achieve compliance. Violation of conditions or requirements may also result in the City of Hayward instituting a revocation hearing before the Planning Commission. The following Conditions of Approval shall be met before operation of the facility.

**CONDITIONS OF APPROVAL**

**General**

1. The permittee shall assume the defense of, and shall pay on behalf of, and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
2. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
3. Applicant shall apply for all necessary building permits and/or all other related permits from the Building Division. All structures and improvements shall be constructed and installed in accordance with the California Building Code, Uniform Mechanical and Plumbing Code, National Electrical Code, and the California Fire Code as adopted by the City of Hayward. All improvements shall be made prior to occupation of the site.

4. Prior to final inspection, all pertinent conditions of approval and all other improvements shall be completed to the satisfaction of the Planning Director.
5. The applicant shall be responsible for graffiti-free maintenance of the site, and shall remove any graffiti within 48 hours of occurrence or City notification.
6. An emergency contact shall be posted at the gate to respond to operational issues or concerns that can respond to calls 24 hours a day, 7 days a week.
7. Any future replacement or reinstallation of structures or equipment at this site shall be subject to the requirements and standards of the City of Hayward at that time.
8. If determined to be necessary for the protection of the public peace, safety and general welfare, the City of Hayward may impose additional conditions or restrictions on this permit including, but limited to, additional measures to control the fugitive dust.

#### Planning

9. Applicant shall submit a Parcel Merger application concurrently with a Grading Permit Application. The Certificate of Merger shall be finalized and recorded at the Alameda County Recorder's Office prior to the issuance of any building permit.
10. An Air Permit shall be obtained from the Bay Area Air Quality Management District (BAAQMD) prior to operating the concrete recycling facility.
11. The Concrete Recycling Facility shall comply with the Hayward Municipal Code, Noise Regulations, Chapter 4, Article 1, SEC. 4-1.03.1 *Noise Restrictions By Decibels* that does not allow a noise level at any point outside of the property plan that exceeds seventy (70) dBA.
12. The operator shall comply with Cal OSHA regulation "Construction Safety Orders, Section 1530.1 Control of Employee Exposures From Dust-Generating Operations Conducted on Concrete or Masonry Materials" regarding employee exposure to respirable crystalline silica dust.
13. The operator shall establish procedures to minimize employee exposure to respirable crystalline silica and inform employees of the potential risk of exposure.
14. The concrete recycling facility shall be limited to processing concrete free of hazardous materials. The scale house operators shall use a photo ionization detector (PID) to evaluate any volatile organic compounds and if any levels exceed 10 particles per minute (PPM) the material shall be rejected and not allowed to be dumped on the site. In addition, if the material is stained, exhibit petroleum contamination, or omit any odor that may be suspected of contamination, the load shall be rejected.
15. The 12-foot high front masonry wall shall be approved by Planning Director prior to installation.
16. Storage of material and large construction equipment is prohibited on the City of Hayward and East Bay Dischargers Easements located along the west property line.

17. Exterior lighting shall be kept low and on the site such that it does cast light on to the surrounding properties disturbing wildlife on the adjacent flood plain and sewage treatment ponds. They shall comply with the Security Ordinance that requires a minimum one-foot candle for all parking and pedestrian circulation areas. The exterior lights for all buildings shall operate with a motion sensor.
18. All vehicular circulation and parking areas shall be paved with asphalt concrete with the exception of the truck unloading ramp route and processing area. The circular turnaround at the ends of the asphalt concrete vehicular circulation shall be paved with concrete. Any other unused area shall be landscaped to minimize dust on the site.
19. The entire yard and frontage used by vehicles entering/exiting facility shall be swept daily.
20. The truck unloading ramp shall not exceed 20 feet in height at any time.
21. The raw material mound shall be maintained at 40 feet high at the south end of the property adjacent to the Russell City Energy Center unless otherwise approved by the Planning Director. The crib wall shall be setback a minimum of 20 feet from the south property line.
22. The finish material mounds shall not exceed 25 feet in height and shall be contained on the rear half of the property.
23. No visible dust shall be allowed to migrate off the site at any time.
24. High pressure sprinklers with a spray radius of 90 feet shall be installed at the top the southern portion of the raw material mound and maintained to be functional at all times, including during non-operational hours. A weather based irrigation controller with a rain sensor shall be provided to operate the sprinklers. The sprinklers shall be programmed to run and shall be run at least twice a day unless the rain sensor overrides the watering schedule.
25. A minimum of two Dustboss DB-45 dust control spray units with a spray radius of 200 feet and fitted on a wheeled carriage shall be installed along the northern portion of material mounds(s) and maintained to be functional at all times, and shall be operated at all times when needed for dust suppression, including during the loading/unloading of trucks and during the crushing processes.
26. Manual watering of material during unloading and loading shall occur to further control dust.
27. An overhead spray system for trucks entering and leaving the site is required to be installed and maintained and shall be operated whenever trucks are entering and existing the site.
28. Water trucks shall spray all ground surface areas periodically to minimize dust.
29. Dust suppression system, provided for each load leaving the yard and the crusher, shall be maintained and fully functional and shall be operated at all times to mitigate airborne contaminants from leaving the site (by means of vehicles, equipment, trailers, air, and surface waters).

30. If there's a malfunction of any dust suspension equipment, the processing of concrete raw material shall be shut-down until dust suppression can be restored.
31. All abandoned debris, regardless of the type of materials or quantity, shall be removed at least daily and all costs for removal shall be borne exclusively by the named facility. Debris shall be removed from the public right-of-way within 300 feet of any property line of the facility at applicant's cost.

#### Solid Waste

32. Provide Monthly Reports of All Inbound and Outbound Materials: The applicant shall provide monthly reports, indicating all inbound tonnage delivered to and outbound materials removed from the site, whether for recycling or landfilling.
33. For all incoming loads, data shall include the date, truck number, truck weight (Gross Vehicle Weight (GVW) and tare), the net weight of each load, and the name of each location from which the loads were transported. Data for all outbound loads, whether for recycling or landfilling, shall include the date, material type, facility name, address, contact phone number, and email. Reports are required for each month when some portion or all of the facility is operating. Each monthly report is due by the 15<sup>th</sup> of the following month, or fines will be assessed for each day that the report is late.
34. Truck may only deliver materials during the facility's operating hours and trucks may not block access to other nearby businesses.
35. The applicant shall submit a Best Management Practices Plan so that the City can determine the extent to which operating standards are not met, both on per-incident and an on-going basis. The applicant shall include in its Plan its responsibility to advise the City of all inspections conducted by the Alameda County Environmental Health Department, the results of those inspections and its response plan. The applicant must continuously update the plan, including a list of facilities that deliver materials for processing to the facility, along with address, contact name, and phone number for each of those facilities.

#### Engineering

36. A Parcel Merger application shall be submitted concurrently with a Grading Permit application. The Certificate of Merger shall be finalized and recorded at the Alameda County Recorder's Office prior to the issuance of any building permit.
37. Improvement Plans shall be submitted to the City for review and approval prior to commencing any construction activities.
38. Provide a note on the Improvement Plan indicating that the inlet rims in the Bioretention Treatment Area (BTA) shall be 6" minimum above the flow line of the BTA. The design of the longitudinal flow line shall be level. If not feasible, check dams will be required.



39. Provide a note on the Improvement Plan indicating that the Bioretention Treatment Area shall use a Bioretention Soil Mix (BSM) per Attachment L of the C.3 Stormwater Technical Guidance dated May 14, 2013, with a minimum infiltration rate of 5" per hour.
40. All site surface runoff including runoff coming from the stock pile area of raw concrete and crushed concrete shall be treated through the Bioretention Treatment Area prior to discharge into the drainage system on Depot Road.
41. The owner/developer shall enter into a City's standard "Storm Treatment Measures Maintenance Agreement" (as prepared by the City of Hayward and is available in the Public Works Engineering and Transportation Division); the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
42. The owner/developer shall prepare an Industrial Storm Water Pollution Prevention Plan (SWPPP) in accordance with the appropriate Federal regulations and the State of California requirements for the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (General Industrial Permit).
43. The project plan shall include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
44. Provide a Geotechnical Report with recommendations and if necessary mitigation measures for the proposed raw material mound including providing a permanent erosion control plan for the mound. A grading permit is required for the proposed mound.
45. Sidewalk, curb and gutter, landscaping and Standard L.E.D. street lights shall be installed along the Depot Road street frontage.

#### Water Pollution Source Control

46. The only acceptable sanitary sewer discharge shall be from normal potable water usage, such as bathroom wastewater, or employee breakroom wastewater. Any other use of water or generation of wastewater, inside or outside the building, requires the user to contact Water Pollution Source Control at (510) 881-7900 for approval and further information.
47. A Standard Industrial Waste Monitoring Structure (Dwg. No. SD-309 filed 6-15-93) is required to be installed at end of pipe if not existing. The monitoring facility shall normally be situated on the user's premise and not obstructed by landscaping, equipment or parked vehicles, or in the way of oncoming traffic.
48. All on-site storm drain inlets shall be cleaned at least once per year immediately prior to the rainy season. Additional cleaning may be required by the City.
49. All on-site storm drain inlets shall be clearly stenciled "No Dumping, Drains to Bay."

Utilities

50. The property shall be connected to the City's water system. Water services shall be installed by the City's Water Distribution personnel at the owner's expense.
51. Water meters and services shall be located a minimum of two feet from top of driveway flare as per City Standard Details SD-213 thru SD-218. Water meters shall not be located in setback areas or private driveways or roadways unless approved otherwise.
52. Recycled water shall be used for all concrete dust suppression and landscape irrigation purposes. Purple pipes and valve box markings shall be used to identify the recycled water lines and components. Signage shall be provided in prominent locations to inform the public and staff that recycled water is being used for dust suppression and landscape irrigation purposes.
53. At such time that recycled water is available from a City source, the applicant/developer shall make the necessary modifications to the system at the operator's own cost and accept the recycled water from a City provided source.
54. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each domestic and irrigation water meter, per City Standard Detail SD-202. Backflow Prevention Assemblies shall be at least the size of the water meter or the water supply line on the property side of the meter, whichever is bigger. Backflow devices installed on potable water services shall be lead free.
55. All fire services shall have a double check detector assembly installed per City Standard Detail SD-204. Minimum sizing shall be per Fire Department's requirements. New fire services must be installed by City Water Distribution Personnel at the owner's/applicant's expense.
56. The property shall be connected to the City's sewer system. Sewer cleanouts shall be installed on each sewer lateral at the connection with the building drain, at any change in alignment, and at uniform intervals not to exceed 100 feet.
57. Sewer System Connection/Capacity to accommodate the volume and waste strength of wastewater to be discharged from the property must be purchased, at the rates in effect at the time of purchase, prior to discharge.

Fire Department

58. The applicant shall provide a portable fire extinguisher with a minimum 2A:10BC rating in an area acceptable to the Fire Department. The fire extinguisher shall be within 75 feet of the proposed equipment.



59. The applicant shall install a breakaway type of lock on the new gates. If a case hardened type of lock is used on the gate, a Fire Department lock box shall be installed, including a key, in a location approved by the Fire Department.
60. The fire access apparatus access road shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.
61. Any portion of the building or facility shall be within 400 feet of a fire hydrant.
62. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet. The minimum fire apparatus access road with fire hydrant is 26 feet. Fire apparatus access roads shall be designed and maintained to support the imposed load of fire apparatus 75,000 lbs and shall be surfaced so as to provide all-weather driving capability.
63. Underground fire service line shall be installed in accordance with NFPA-24.
64. New fire hydrants shall be double steamer type equipped with (2) 4-1/2" outlets and (1) 2-1/2" outlet. Blue reflective fire hydrant blue dot markers shall be installed on the roadways indicating the location of the fire hydrants. Vehicular protection may be required for the fire hydrants.

#### Landscaping

65. BAILARD BIEHL & KAISER HAYWARD, INC. shall be notified of and provided the opportunity for input on all landscape plans involving the street frontage area of the property, including the 12-foot barrier wall.
66. Prior to issuance of the first building permit, detailed landscape and irrigation plans shall be reviewed and approved by the City and shall be a part of the approved improvement plans and the building permit submittal. The plans shall comply with the City's Bay-Friendly Water Efficient Landscape Ordinance, Hayward Environmentally Friendly Landscape Guidelines and Checklist for the landscape professional, and Municipal Codes.
67. Backflow prevention assembly shall conform to the City Standard Detail SD-202.
68. Irrigation controller shall be weather based. A rain sensor or equal shall be provided.
69. New paving shall not encroach into the dripline of existing trees to be saved.
70. Public frontage shall include one (1) thirty-six-inch-box tree planted at every twenty (20) to forty (40) feet on center depending upon tree species. Tree specified shall not encourage the nesting of raptors.
71. Landscaping screening shall be provided from the public view from the intersection of Cabot Blvd and Depot Road. At minimum, a single row of fifteen gallon evergreen trees shall be provided at twenty feet on center or deemed appropriate along the eastern property line between the property line and the mound. If planting area is limited for tree planting due to the close proximity to storm drain lateral line, explore the option of locating the drain line at the bottom of

the mound and moving the turnaround on the east to create appropriate tree planting area. Tree specified shall not encourage the nesting of raptors.

72. Trees shall be planted a minimum of five feet from all underground utility lateral lines.
73. Three inches deep dark brown organic recycled chipped wood mulch shall be installed in all planting areas including bio-treatment area.
74. Every tree shall be provided with two tree bubblers.
75. An eighteen (18) inches minimum wide cobblestone band shall be provided around drain inlets or catch basins.
76. Twenty-four (24) inch minimum deep cobblestone shall be provided behind slotted curbs. Top of cobblestone shall be flush with bottom of curb.

# **Bay Area Concrete Recycling**

## **24701 Clawiter Road Chronology**

**(Updated 10/28/18)**

Formerly operated at 2207 Wake Avenue, Oakland, Ca.

<http://www.bayareaconcreterecycling.com/>

**Text in Black (Bold text) pertain to 24701 Clawiter Road**

**Text in Red pertain to 3890/3898 Depot Road**

BACR - Bay Area Concrete Recycling (BACR)

WPSC – Water Pollution Source Control

AUP – Administrative Use Permit

CUP – Conditional Use Permit

BAAQMD – Bay Area Air Quality Management District

PCB - Polychlorinated Biphenyl

<b>April 18, 1962</b>	<b>Use Permit No. 11259 is approved for a warehouse and office for distribution of engine parts.</b>
<b>Sept. 4, 1963</b>	<b>Use Permit No. 13117 is approved for expansion of an existing use permit by constructing a 9600 square foot warehouse for the storage &amp; distribution of diesel parts.</b>
<b>March 15, 2006</b>	<b>Preet Johal, General Manager of Economy Trucking Services, Inc. applies for a business license for Truck Company Office Only at 24701 Clawiter Road. License application notes that trucks are parked in Union City.</b>
<b>2011/2012</b>	<b>Mr. Kevin Singh, of S &amp; A Investment Holding/BACR inquires if an Outdoor Concrete Recycling Facility at 24701 Clawiter Road would be an allowed use. Mr. Singh was informed that it would require approval of a Conditional Use Permit and that staff was not supportive of that use at that location.</b>
<b>Feb. 2012</b>	<b>S &amp; A Investment Holding, LLC purchases 24701 Clawiter Road. Preet Johal is listed as a member of S &amp; A Investment Holding, LLC.</b>
<b>April 2, 2012</b>	<b>Business License approved for Economy Trucking Services, Inc. for hauling services. On the application it is noted: Concrete recycling requires approval of a Conditional Use Permit for outdoor storage. Kevin Singh is listed as manager and Preet Johal as owner.</b>

- Nov. 16, 2012** BACR applies for an CUP (PL-2012-0378) to operate a Concrete Recycling Facility at 24701 Clawiter Road. Applicant Kevin Singh.
- Jan. 18, 2013** Business License approved for Economy Truck Repair.
- Aug. 27, 2013** Application PL-2012-0378 cancelled due to inactivity. No response to Incomplete Letter. Staff encouraged Mr. Singh to look for a location on Depot Road where other outdoor uses such as the auto wrecking yards are located.
- Nov. 4, 2013** Hayward Access Complaint (Request No. 51488) filed by staff for someone who wanted to remain anonymous - A concrete recycling facility is operating without approval of a CUP/or AUP at 24701 Clawiter Road. Dust from the operation is not being controlled and getting on adjacent property cars.
- Feb. 22, 2014** Google Earth Aerial of 24701 Clawiter Road taken on February 22, 2014. Concrete Recycling Processing Area is contained in the Northwest corner of the property.



- April 22, 2014** BACR applies for AUP (PL-2014-0225) to operate an Outdoor Concrete Recycling Facility at 3890/3898 Depot Road. Applicant Kevin Singh.
- June 1, 2014** Photograph taken on June 1, 2014. Note the height of the stockpile in relationship to the trucks. See photographs taken on September 18, 2018.





Jan. 7, 2015

**Hayward Access Complaint (Request No. 167406):** A large pile of rock and dirt is raising a large cloud of dust and dirt is blowing everywhere.

March 2015

**Google Earth Pro Aerial of 24701 Clawiter Road**



May 1, 2015

**BACR's Administrative Use Permit PL-2014-0225 to operate an Outdoor Concrete Recycling Facility at 3890/3898 Depot Road is approved administratively.**

May 28, 2015

Business License approved for Slurry Waste Solutions at 24701 Clawiter Road. Jeet Kaur is listed as owner. Notes on license include: Processing water/dirt, water not released to sewer/storm drain and dirt in covered containers.

Oct. 2015

Google Earth Pro Aerial showing Slurry Waste Solution in the lower left corner of the property. A cylinder tank was installed in the Slurry Waste Solution area without the approval of a Building Permit.





Aug. 2016	BACR applies for Statewide Portable Equipment Registration (Application No. 38818) with the Air Resources Board for Portable Crushing and Screening Equipment.
Sept. 21, 2016	<u>Hayward Access Complaint (Request No. 101355/CE-16-3604)</u> – Office is being built upstairs without Building Permits at 24701 Clawiter Road.
Nov. 14, 2016	<u>Code Enforcement issues “Egregious Violation”</u>
Dec. 30, 2016	<u>Code Enforcement issues “Egregious Violation”</u> for failed 1 <sup>st</sup> Inspection. BACR fined \$1500
Jan. 10, 2017	Air Resources Board approves with operating conditions, BACR Statewide Portable Equipment Registration. (Registration No. 173997).
Jan 27, 2017	<u>Code Enforcement</u> issues “Egregious Violation” for failed 2 <sup>nd</sup> Inspection. No permit obtained to-date. No application for correction of un-permitted construction and land-use submitted as of date. Fined \$3000
Feb. 23, 2017	<u>Water Pollution Source Control</u> (WPSC) receives a complaint from public about dust and excessive sediment on Clawiter Road. WPSC found signs of sediment and tire marks on the street but no dust evident inside or outside the facility. BACR was advised to sweep and spray the site more frequently.
March 2, 2017	<u>Code Enforcement issues “Egregious Violation”</u> for failed 3 <sup>rd</sup> Inspection. No permits or plans submitted to-date. BACR fined \$5000.
March 20, 2017	BACR request to continue operating their Clawiter Road facility until their Depot Road facility is up and running.
March 22, 2017	Meeting held with BACR to discuss request to continue operating at Clawiter Road site. Staff mentions applying for an Administrative Use Permit for a “Temporary Use” but staff would not be supportive of the application.
April 11, 2017	<u>Code Enforcement issues “Egregious Notice”</u> for failed 4 <sup>th</sup> Inspection. BACR fined \$5000



- April 20, 2017** Building Permit Application 201702120 submitted to legalize conversion of second floor storage to office space along with ADA bathroom upgrade at 24701 Clawiter Road.
- June 16, 2017** Building issues a punchlist for Building Permit Application 201702120.
- Sept. 1, 2017** Google Earth Pro Aerial – Truck dirt tracks can be seen from 24701 Clawiter Road site along Clawiter Road and Industrial Boulevard.
- August/Sept 2017** Tim Bauter of BARC informs staff that they will be enclosing the concrete recycling facility in an industrial building with solar panels on roof at the Depot site (3890/3898 Depot). Staff responds that it would require a modification of the original AUP and is supportive of the proposed change.



Google Earth Pro 9/1/2017 – Truck Dirt Tracks

- Oct. 24, 2017** Code Enforcement issues “Egregious Violation” for 5<sup>th</sup> failed Inspection. BACR failed to respond to punchlist items for Building Permit Application. Punchlist was issued on June 16, 2017. BACR fined \$5000.
- Oct. 26, 2017** John J. Verber of Burnham Brown, counsel for D.W. Nicholson Corporation request that the City investigate the potential public health impacts of BACR operations at 24701 Clawiter Road.

Dec. 2017

Google Earth Pro – Dirt and debris leading from 24701 Clawiter Road



Google Earth Pro 12/2017

- Jan. 1, 2018**      **Code Enforcement receives complaint from local resident regarding possible water run-off contamination due to continued soil spills in street.**
- Jan. 3, 2018**      **Code Enforcement issues “Egregious Violation” for 6<sup>th</sup> failed Inspection. BACR fined \$5000**
- Jan. 25, 2018**      **Hayward Access Complaint (Request No. 129999): Trucks working on property are spilling dirt and rocks onto the sidewalk and street.**
- Feb. 20, 2018**      **BACR receives “Stormwater Management and Urban Runoff Control Notice of Violation” from the City of Hayward Water Pollutions Source Control for “drag-out of sediment into the roadway which may contribute to stormwater pollution or contamination.”**
- Feb. 20, 2018**      **Code Enforcement issues “Egregious Violation” for 7<sup>th</sup> failed Inspection. BACR fined \$5000**
- March 7, 2018**      **Code Enforcement files complaint with BAAQMD for on going complaints code enforcement receives about air quality.**
- March 7, 2018**      **Code Enforcement issues “Egregious Violation” for 8<sup>th</sup> failed Inspection. BACR fined \$5000**
- March 14, 2018**      **Site Visit and meeting with BARC and Staff. Discussed the Code Enforcement Violations and fines for the Clawiter site. BACR requested that they be allowed to continue operating the Clawiter site until the Depot site is approved and up**

and running and that we stop fining them. They were informed they could apply for an Administrative Use Permit for a “Temporary Use” but staff would not be supportive of the request. Tim Bauters of BACR, will not allow staff to take pictures at inspection due to pending patents on slurry seal operation present at site.

March 14, 2018	<u>Code Enforcement issues “Egregious Violation” for 9<sup>th</sup> failed Inspection.</u> BACR fined \$5000
March 28, 2018	<u>Code Enforcement issues “Egregious Violation” for 10<sup>th</sup> failed Inspection.</u> BACR fined \$5000
April 11, 2018	<u>Access Hayward Complaint (133239)-</u> There is a large volume of dust and concrete particles that are becoming airborne from Bay Area Concrete Recycling at 24701 Clawiter Rd. There is also a lot of debris being tracked onto the roadways of Clawiter and, also Industrial, by way of the truck’s tires.
April 12, 2018	BACR makes a payment of \$30,385.90 for accrued fines prior to submitting AUP for a “Temporary Use”.
April 17, 2018	BACR applies for an AUP 201801996 (Temporary Use) to continue operating at the 24701 Clawiter Road until a new AUP for the Depot site is approved and site is up and running. Applicant: Kimberly Douglas
April 24, 2018	For Building Permit 201702170, in the second round of review, Planning requested that BACR apply for Site Plan Review because of the intensification of the use, addition of new uses on the property and expansion onto undeveloped portion of the site. There are several businesses operating from 24701 Clawiter Road and as an aggregate, additional improvements are required to be made to the site. The businesses operating from the site must be determined and business licenses must be obtained if they have not already done so.
May 1, 2018	<b>The Administrative Use Permit PL-2014-0225 for an Outdoor Concrete Recycling Facility at <u>3890/3898 Depot Road</u> expired.</b>
May 3, 2018	<u>A response to the Public Notice</u> was received expressing frustration with BACR’s Street Sweeper and BACR not being responsive to persons request.

May 9, 2018

Google Earth Pro Aerial of 24701 Clawiter Road taken on May 9, 2018.



The water truck is limited and not able to spray the tops of the mound. No means of wetting down the mounds have been observed. Stockpile encroaches on City and County of San Francisco Water Pipeline Easement and PG&E Gasline Easement (40 feet) which is located on the property along the rear property line.

May 8, 2018

A response to the Public Notice was received opposing the Temporary Use Permit. Concern expressed that it does not require BACR to operate their business at any less stringent requirement. They have been subject to this continued nuisance for several years now, with the expectation that they would be moving.

May 10, 2018

A response to the Public Notice was received expressing concern about the lack of dust control and the high risk of silica exposure.

May 21, 2018

Troy Hash, Inspector with the Bay Area Air Quality Management District (BAAQMD) drafts a "Notice of Violation". Notice is undergoing review prior to being issued to BACR for the Outdoor Concrete Recycling Facility at 24701 Clawiter Road. Violations under review are, height of stockpile, volume of concrete being recycled and operating a generator without air permits.

June 1, 2018

Application 201801996 AUP (Temporary Use) at Clawiter site is determined to be complete.

June 7, 2018

**BACR applies for an AUP 201803003 to operate a 94,500 sf Indoor Concrete Recycling Facility at 3890/3898 Depot Road. Applicant: Kimberly Douglas of BACR.**

June 12, 2018

Code Enforcement issues "Egregious Violation" for 11<sup>th</sup> failed Inspection. BACR fined \$5000



July 3, 2018	Bay Area Air Quality Management District (BAAQMD) receives an application for an “Authority to Construct” from BACR for 24701 Clawiter Road for an Outdoor Concrete Recycling Facility.
July 6, 2018	Application 201801996 AUP (Temporary Use) at 24701 Clawiter Road is denied. Appeal period ends July 23, 2018. If not appealed, the decision is final and it is effective July 24, 2018.
July 7, 2018	Bay Area Air Quality Management District deems the “Authority to Construct” application for 24701 Clawiter Road incomplete.
July 11, 2018	<b>Application AUP 201803003 for Indoor Concrete Recycling Facility proposed at <u>3890/3898 Depot Road</u> determined to be Incomplete. Staff required additional information. Fire required an access road around the side and rear of the building.</b>
July 23, 2018	Application 201801996 AUP (Temporary Use) at 24701 Clawiter Road, BACR appeals denial to Planning Commission.
Sept. 11, 2018	BAAQMD Inspector Troy Hash and BAAQMD Engineer Snigdha Mehta, inspects BACR facility.
Sept. 18, 2018	Photos taken from the sidewalk fronting 24701 Clawiter Road with exception of the aerial view, which is from Google Earth Pro, which shows the conditions of the paving.





Note: The haze is from a smudge on camera lens and not dust.





The asphalt paving has failed in several places.

- Sept. 24, 2018** Code Enforcement received a complaint about drivers are being very unsafe. Complainant indicated that they are dumping concrete into the road and causing a lot of dust in the air.
- Sept. 24, 2018** Code Enforcement issues "Egregious Violation" for 12<sup>th</sup> failed Inspection. BACR fined \$5000
- Sept. 25, 2018** Hayward Access Complaint (Request No. 146465): A cylinder tank was installed in the Slurry Waste Solution area without the approval of a building permit. A review of Google Earth Pro Aerials indicates it was installed in 2015.





Note: The haze is from a smudge on camera lens and not dust.

- Oct. 3, 2018**      **Staff receives resubmittal for Application AUP 201803003 for Indoor Concrete Recycling Facility proposed at 3890/3898 Depot Road in response to Incomplete Letter dated July 11, 2018.**
- Oct. 4, 2018**      **BACR request a continuance of appeal from Oct. 11, 2018 to Nov. 8, 2018. BACR retains Attorney, Allan Moore of Wendel, Rosen, Black & Dean LLP**
- Oct. 7, 2018**      **Staff observes visible dust at 24701 Clawiter Road on a windy day. No dust abatement provided on weekends.**



- Oct. 9, 2018**      **Rosanna Russell, head of the of the San Francisco Public Utilities Commission (SFPUC) Real Estate Services states that the pipeline is not active at this time and**

they can not restrict the concrete stockpiling within the easement, however the SFPUC does not favor this use within the easement located at the rear of the property.

**Oct. 10, 2018**

A response to Notice of Appeal – Stockpile is encroaching on to their property and notes that the crushed concrete stockpile is quite high. Concrete rubble rolls down stockpile. During the rainy season, runoff comes onto their property and there a tremendous amount of dust.

**Oct. 11, 2018**

A follow up response to Notice of Appeal – ConXtech follows up with email and photographs regarding the 24701 Clawiter site operation expressing concerns about health and safety, damage to property, dust and storm water runoff.





Photographs of BACR Stockpile encroaching on ConXtech property.

- Oct. 11, 2018**      **Code Enforcement issues “Egregious Violation” for 13<sup>th</sup> failed Inspection. BACR fined \$5000. See Attachment VII.**
- Oct. 22, 2018**      **BACR submits “Documentation of Businesses at 24701 Clawiter Road” which includes proposed short, medium, and long-term improvements for each business. An incomplete topographical survey was provided. However, the height of the stockpiles at the time the property was surveyed are 36 feet for the crushed aggregate and 42 feet for the raw material stockpile. See Attachment VIII.**
- Oct. 26, 2018**      **Staff observed that both the site and street had been recently been cleaned up. However as two truck left the processing area a puff of dust appeared behind them. It appears that a third truck (red cab with white hauling body) had unload material causing dust to scatter.**







**Staff also observed the water truck limitation on wetting down the stockpile. They are not able to reach top or the back sides of the stockpile where there are no roads.**



Oct. 30, 2018

Pictures taken by Water Pollution Source Control of dirt being tracked onto Clawiter Road and Industrial Boulevard.





# 3890/3898 Depot Road Chronology

(Updated 10/28/18)

## Text in Red pertain to 3890/3898 Depot Road

April 22, 2014

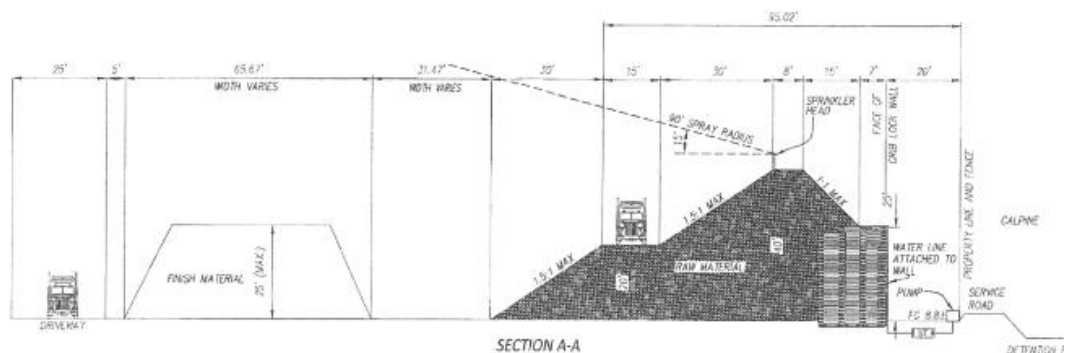
BACR applies for AUP (PL-2014-0225) to operate an Outdoor Concrete Recycling Facility at 3890/3898 Depot Road. Applicant Kevin Singh.



Google Earth Pro 9/2018 – 3898/3890 Depot Road

May 1, 2015

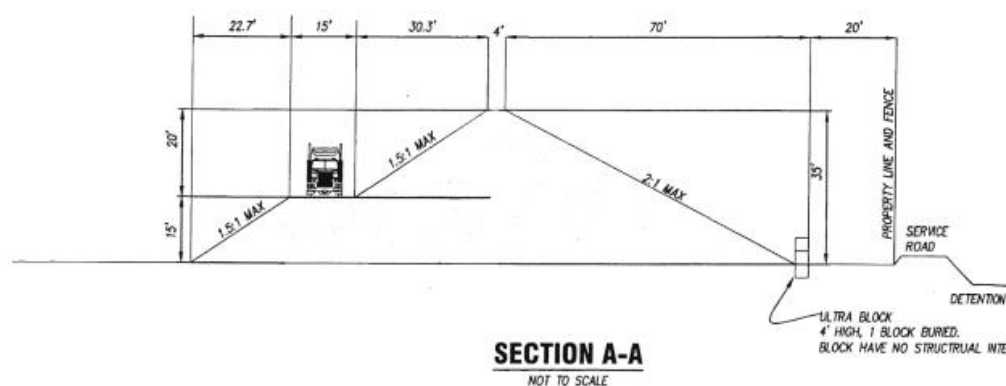
Application AUP PL-2014-0225 to operate an Outdoor Concrete Recycling Facility at 3890/3898 Depot Road is approved. Applicant Kevin Singh.





Section of approved AUP PL-2014-0225 – Layout attempt to capture the fugitive dust in the processing area before it reaches the 40-foot high permanent mound. Dustboss (Atomized Spray Misters)<sup>1</sup> are located down in the processing area and sprinkler are located on top of the permanent mound. The maximum height of the Finish Material mound is 25 feet. The prevailing wind blows toward the Russell City Energy Center which is behind the permanent mound. The concept was to catch the Fugitive Dust in the processing area and keeping it from going beyond the Raw Material Mound. The irrigation sprinklers (90+ foot radius spray) on the top of the mound was to keep the Raw Material Mound and a portion of the processing area wet down and would go on periodically during the day, 7 days a week and be on an automatic irrigation controller. The Dustboss would capture the dust in the processing area.

- March 22, 2016 Meeting held to discuss Water Pollution Source Control's concern about PCB entering into the groundwater and into the bay.
- March 2016 BARC applies for Bay Area Air Quality Management District (BAAQMD) "Authority to Construct" Permit for 3898/3890 Depot Road.
- April 5, 2016 BARC receives approval from BAAQMD for "Authority to Construct" for Permit Application N. 27199, Plant 23061 for Depot facility. A "Permit to Operate" is required before the facility can operate.
- Oct. 14, 2016 BACR applies for Grading Permit (201605449) – Grading and Site Preparation for the Concrete Recycling Facility) for the Depot Road facility. The grading plan changes eliminated the crib wall and lowers the height of the barrier mound to 35 feet high. It does not conform to what was approved in AUP PL-2014-0225 and the changes requires a modification of the AUP PL-2014-0225.

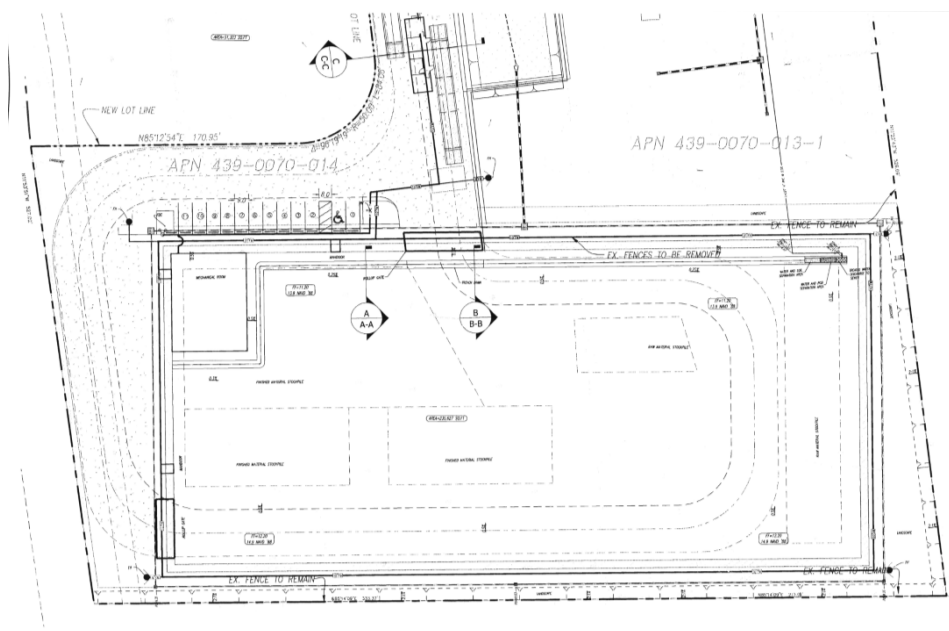


<sup>1</sup> Dustboss  
<https://bosstek.com/products/dust-control-solutions/>

This new layout replaces the 20-foot high crib wall with a 5-foot high concrete ultra block wall and lowers the permanent mound to 35 feet high. Dustboss (Spray Misters) are mounted on 15-foot high poles and two are placed in the processing area and two at the back of the mound. The concrete processing area is to the left of the Raw Material Mound.

- |                         |   |
|-------------------------|---|
| Oct. 26, 2016           | Meeting held with BACR and their consultants to discuss concerns brought up by Water Pollution Source Control about the potential of PCB in the concrete rubble that may get into the groundwater and end up in the bay.  |
| Dec. 15, 2016           | Meeting with BACR to discuss water source for use in controlling the fugitive dust.<br><br>The meeting also included discussing issues regarding the Depot Road site (Modification of AUP, Recycled Water Source, Certificate of Merger, Cleaning/Removal of unpermitted structures on site, Measures for limiting permeability of the soils, Deferred Improvements, etc).  |
| March 27, 2017          | Jan Lee, Water Resource Manager informs BACR the City is meeting to discuss options to provide recycled water in the near-term for the Depot site.  |
| May 2, 2017             | Meeting with BARC and Staff regarding Depot Road. Staff indicates that a barrier needs to be provided to prevent PCB getting into the groundwater and entering into the bay.  |
| June 22, 2017           | Meeting with BARC and Staff regarding Depot Road. Staff reiterates that a barrier must be provided so that PCB does not enter into the ground water and that BARC must apply for a modification to the original AUP for changes to the height of the barrier mound, source of water and other changes.  |
| July 11, 2017           | Meeting with BARC and Staff regarding Depot Road modifications. Staff reiterates that lowering the Raw Material mound would require a modification of the original AUP. Condition 21 of the Conditions of Approval required that the Raw Material Mound be kept at 40 feet high as the mound was designed as a barrier to catch any fugitive dust from the processing of the concrete rubble and blowing it toward the Russell City Energy Center Steam Turbines. |
| <b>August/Sept 2017</b> | <b>Tim Bauter of BARC informs staff that they will be enclosing the concrete recycling facility in an industrial building with solar panels on roof at the Depot site. Staff responds that it would require a modification of the original AUP and is supportive of the proposed change.</b>  |
| Feb. 28, 2018           | Pre-application Meeting scheduled today, BACR asked meeting to be rescheduled to discuss Proposed Indoor Concrete Facility for the Depot Road site. Drawings where not submitted.   |

- March 7, 2018 Pre-application Meeting schedule today. BARC asked meeting to be rescheduled to discuss Proposed Indoor Concrete Facility for the Depot Road site. Drawings where not submitted.
- March 21, 2018 Pre-application Meeting held to discuss BACR Proposed Indoor Concrete Facility for the Depot Road site. BACR informed that they would have to apply for a new AUP since the original application would expire before it could be processed. Only a Site Plan was provided for staff's review.
- May 1, 2018 Application AUP PL-2014-0225 to operate an Outdoor Concrete Recycling Facility at 3890/3898 Depot Road expires. The facility was not constructed. The AUP expires after 3 years if the facility is not constructed and operating. Applicant: Kimberly Douglas for BACR
- June 7, 2018 **BACR applies for an AUP 201803003 to operate a 94,500 sf Indoor Concrete Recycling Facility at 3890/3898 Depot Road. Applicant: Kimberly Douglas of BACR. Below is the interior layout of the proposed indoor concrete recycling facility.**



- July 11, 2018 **Application AUP 201803003 for Indoor Concrete Recycling Facility proposed at 3890/3898 Depot Road determined to be Incomplete. Staff required additional information. Fire required an access road around the side and rear of the building.**
- Sept. 22, 2018 **Hayward Access Complaint (Request No. 140893):** The property at 3898 Depot Road is being used for truck storage. Oil from trucks have spilled on the crushed aggregate paving. Dust is being tracked onto the street. Approval of an Administrative Use Permit is required.



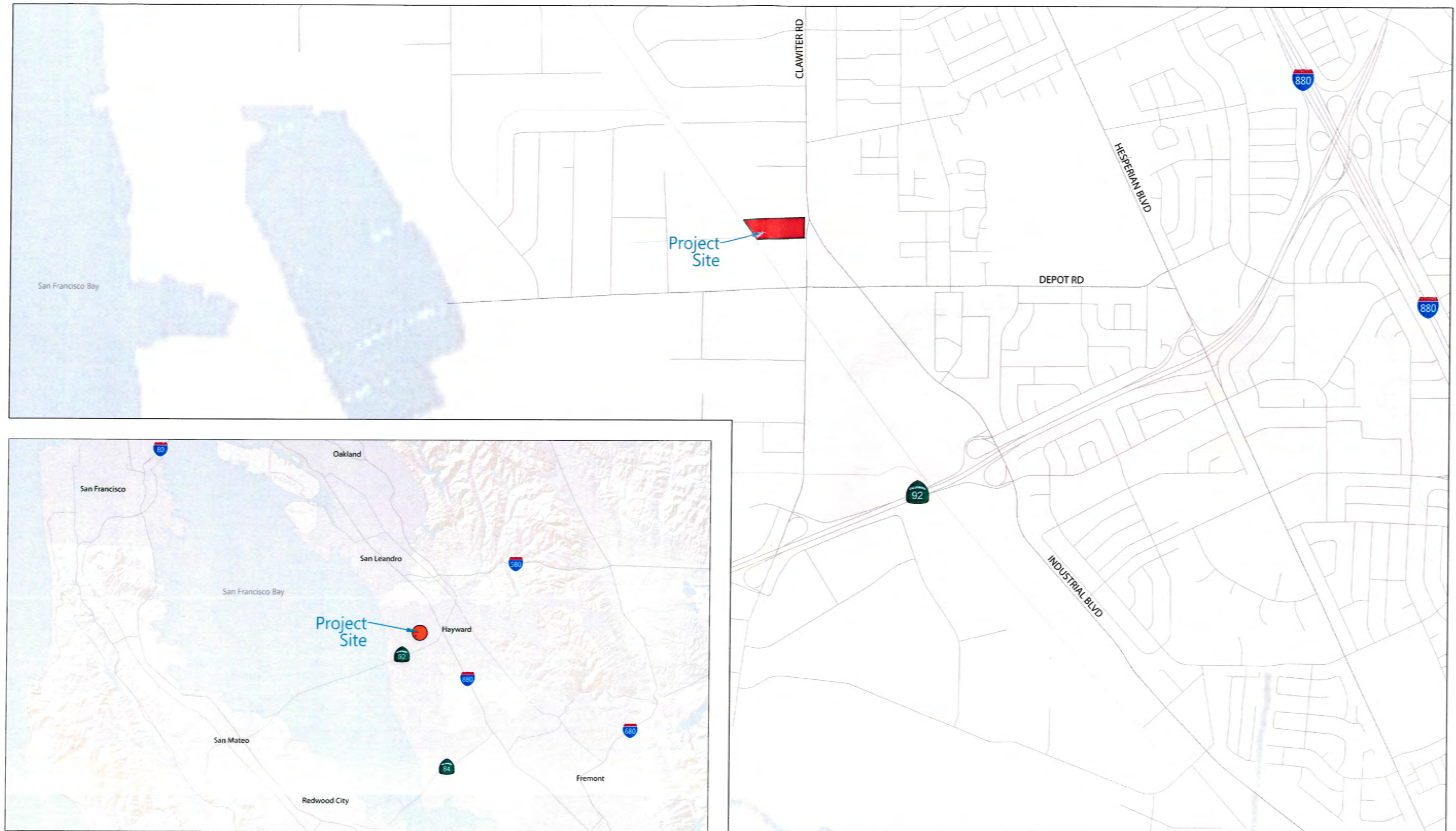
- Sept. 22, 2018 **Hayward Access Complaint (Request No. 146297):** The property at 3890 Depot Road is being used for truck storage and other equipment. Approval of an Administrative Use Permit is required.
- Oct. 3, 2018 **Staff receives resubmittal for Application AUP 201803003 for Indoor Concrete Recycling Facility proposed at 3890/3898 Depot Road in response to Incomplete Letter dated July 11, 2018.**
- Oct. 24, 2018 PW Utilities Division informs staff that the recycled water main has been installed and extends on the opposite side of the street from 3898 Depot Road but recycled water will not be available until the first quarter of 2020.
- Oct. 26, 2018 **Hayward Access Complaint (Request No. 148415):** Pacific Truck Driving School has relocated to 3890 Depot Road. An Adult Vocational Training School requires approval of an Administrative Use Permit. Pacific Truck Driving School has not applied for an AUP.



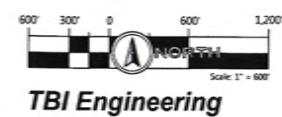
**Oct. 30, 2018**

**BACR receives 2<sup>nd</sup> incomplete letter for Application AUP 201803003 for proposed Indoor Concrete Recycling Facility at the Depot Road site. Many items in the first incomplete letter were not addressed including providing fire access around the perimeter of the building.**





DATA SOURCES: ESRI 2009; US Coastlines, TerraMetrics North America, Inc., 2010; U.S. Populated Place Areas, ESRI; Data & Maps, 2010; U.S. Highways, Census 2000 TIGER, Line, 2010



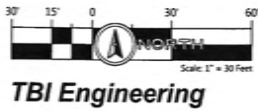
**Project 201801996 AUP**  
**24701 Clawiter Rd**

**Site Location**  
 BAY AREA CONCRETE RECYCLING  
 Figure G1



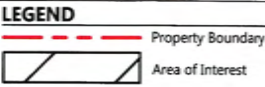


SOURCE: City of Hayward GIS Department, 2010  
AERIAL PHOTOGRAPH SOURCE: Google Earth Pro 2011-09-01



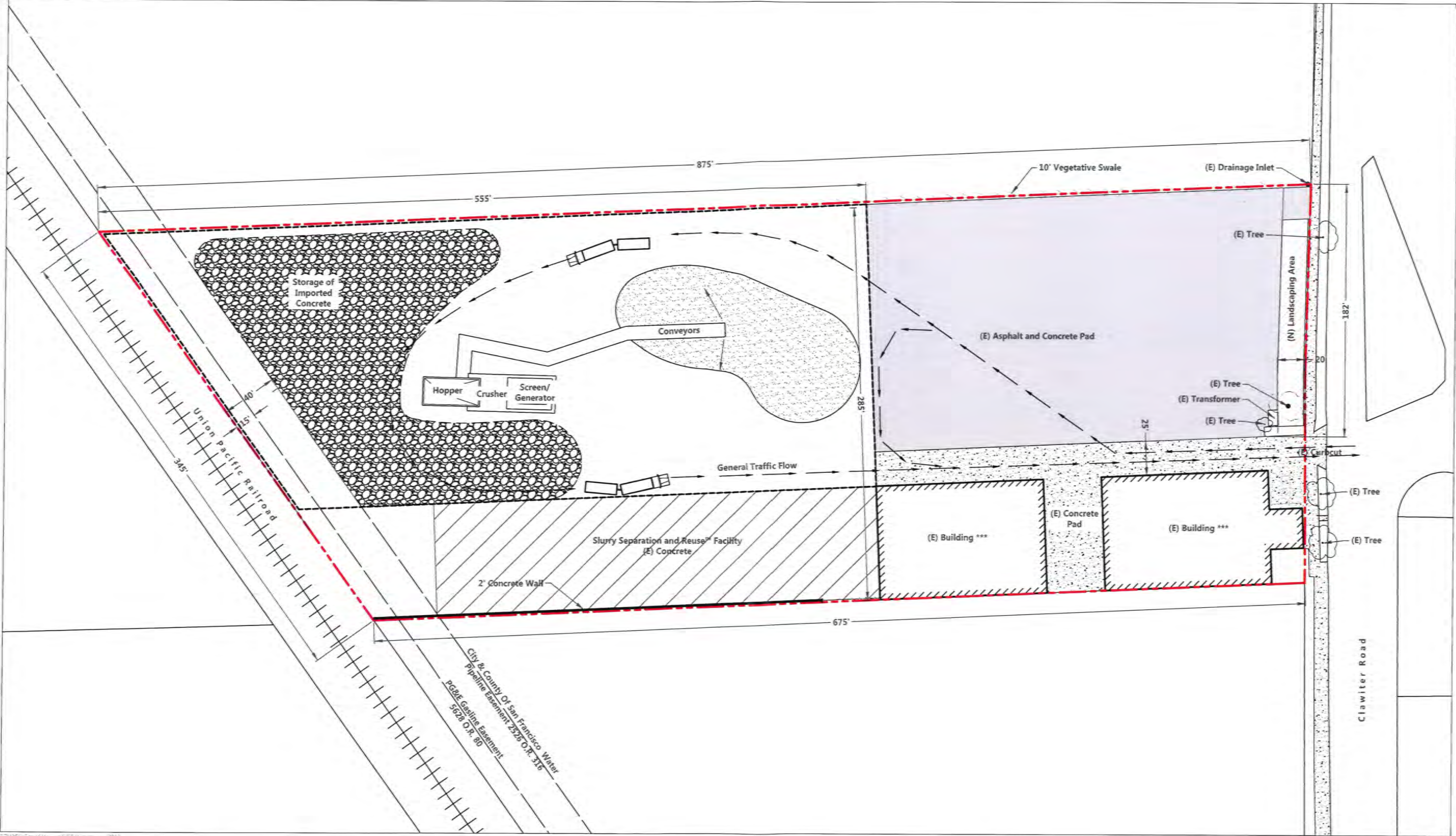
PROPERTY OWNER INFORMATION	
Property Owner:	S & A Investment Holdings, LLC
Mailing Address:	24701 Clawiter Rd., Hayward, CA 94545-2225
SITE INFORMATION	
APN:	439-0020-002-03
Zoning:	I (Industrial)
General Plan:	IC (Industrial Corridor)
Assessor Lot Size:	4.76 acres
Landscaping Area:	0.07 acres
Total Area of Interest:	2.15 acres

Notes:  
\*\*\* See Figure G7 for detail.  
(E) Existing  
(N) New



Existing Conditions Aerial Photograph  
BAY AREA CONCRETE RECYCLING  
Figure G2





SOURCE: City of Hayward GIS Version: 2023



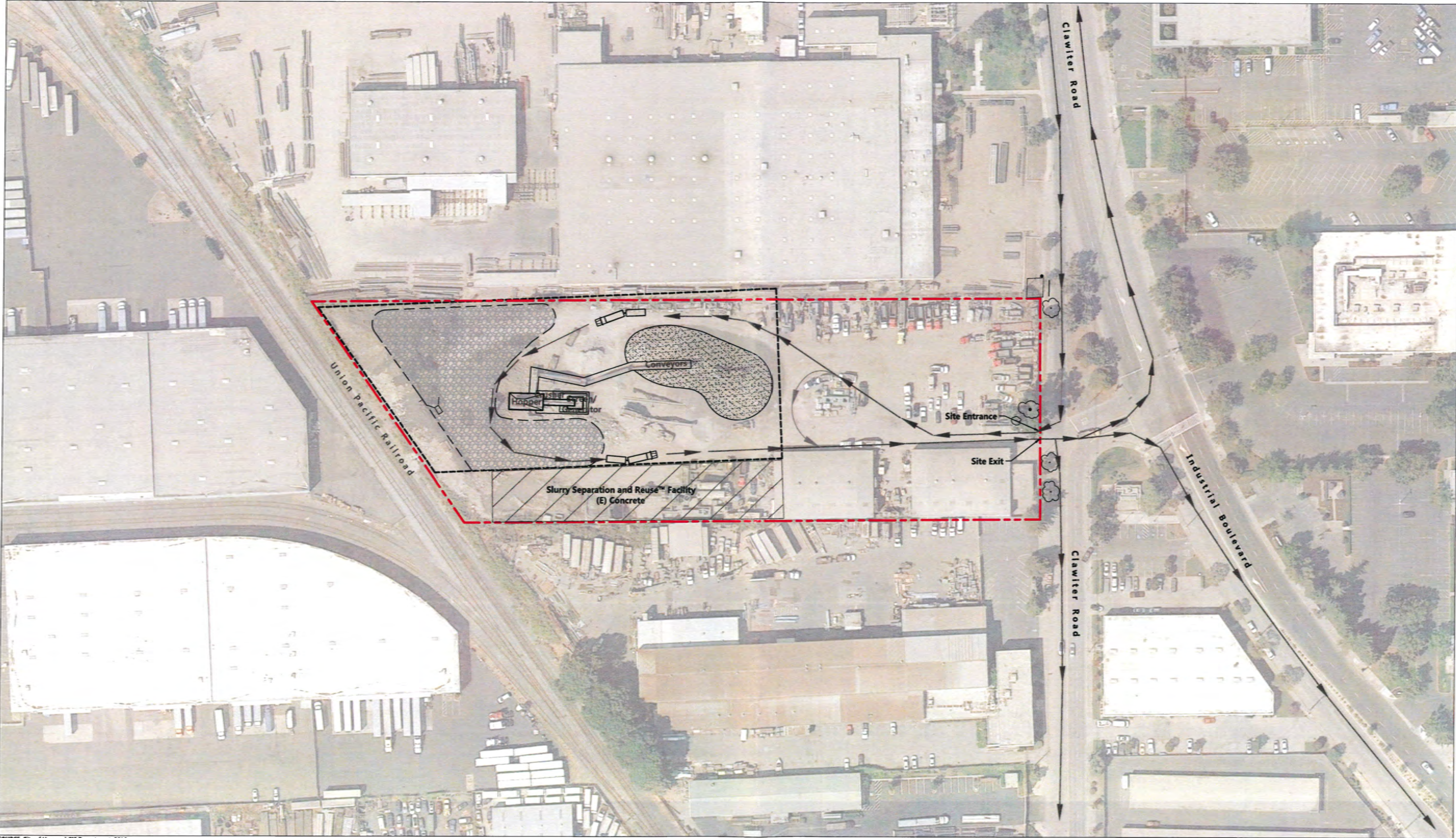
PROPERTY OWNER INFORMATION	
Property Owner:	S & A Investment Holdings, LLC
Mailing Address:	24701 Clawiter Rd., Hayward, CA 94545-2225
SITE INFORMATION	
APN:	439-0020-002-03
Zoning:	I (Industrial)
General Plan:	IC (Industrial Corridor)
Assessor Lot Size:	4.76 acres
Landscaping Area:	0.07 acres
Total Area of Interest:	2.15 acres

Notes:  
\*\*\* See Figure G7 for detail.  
(E) Existing  
(N) New

LEGEND	
	Property Boundary
	Proposed Concrete Recycling Facility
	Asphalt and Concrete Pad

**Facility Layout**  
BAY AREA CONCRETE RECYCLING  
Figure G3

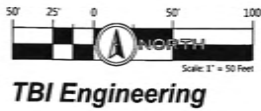




SOURCE: City of Hayward GIS Department, 2010  
AERIAL PHOTOGRAPH SOURCE: Google Earth Pro 2011-10-29

**PROPERTY OWNER INFORMATION**  
Property Owner: S & A Investment Holdings, LLC  
Mailing Address: 24701 Clawiter Rd., Hayward, CA 94545-2225

**SITE INFORMATION**  
APN: 439-0020-002-03  
Zoning: I (Industrial)  
General Plan: IC (Industrial Corridor)  
Assessor Lot Size: 4.76 acres  
Landscaping Area: 0.07 acres  
Total Area of Interest: 2.15 acres



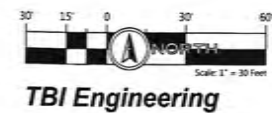
- LEGEND**
- Property Boundary
  - Proposed Concrete Recycling Facility
  - Traffic Flow

**Traffic Flow**  
BAY AREA CONCRETE RECYCLING  
Figure G4





SOURCE: City of Hayward GIS Department, 2010



TBI Engineering

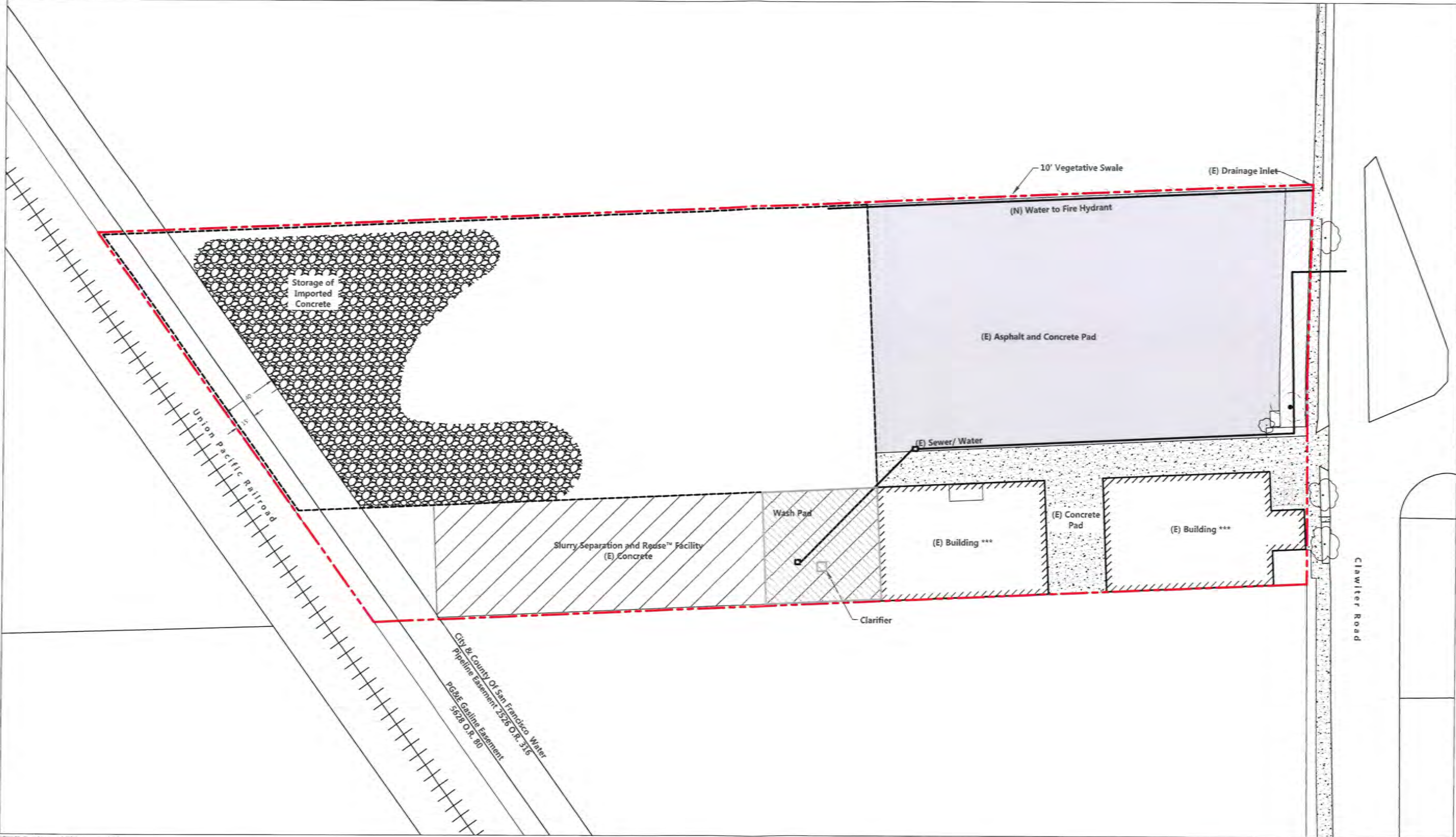
PROPERTY OWNER INFORMATION  
Property Owner: S & A Investment Holdings, LLC  
Mailing Address: 24701 Clawiter Rd., Hayward, CA 94545-2225

SITE INFORMATION  
APN: 439-0020-002-03  
Zoning: I (Industrial)  
General Plan: IC (Industrial Corridor)  
Assessor Lot Size: 4.76 acres  
Landscaping Area: 0.07 acres  
Total Area of Interest: 2.15 acres

Notes:  
\* See Stormwater Pollution Prevention Plan  
\*\* Although not shown in aerial Figure G2, the east portion of the site was paved with asphalt during summer 2012.  
\*\*\* See Figure G7 for detail.  
(E) Existing  
(N) New

LEGEND  
- - - Property Boundary  
- - - Proposed Concrete Recycling Facility

Grading and Drainage  
BAY AREA CONCRETE RECYCLING  
Figure G5



SOURCE: City of Hayward GIS Department, 2016



TBI Engineering

**PROPERTY OWNER INFORMATION**  
Property Owner: S & A Investment Holdings, LLC  
Mailing Address: 24701 Clawiter Rd., Hayward, CA 94545-2225

**SITE INFORMATION**  
APN: 439-0020-002-03  
Zoning: I (Industrial)  
General Plan: IC (Industrial Corridor)  
Assessor Lot Size: 4.76 acres  
Landscaping Area: 0.07 acres  
Total Area of Interest: 2.15 acres

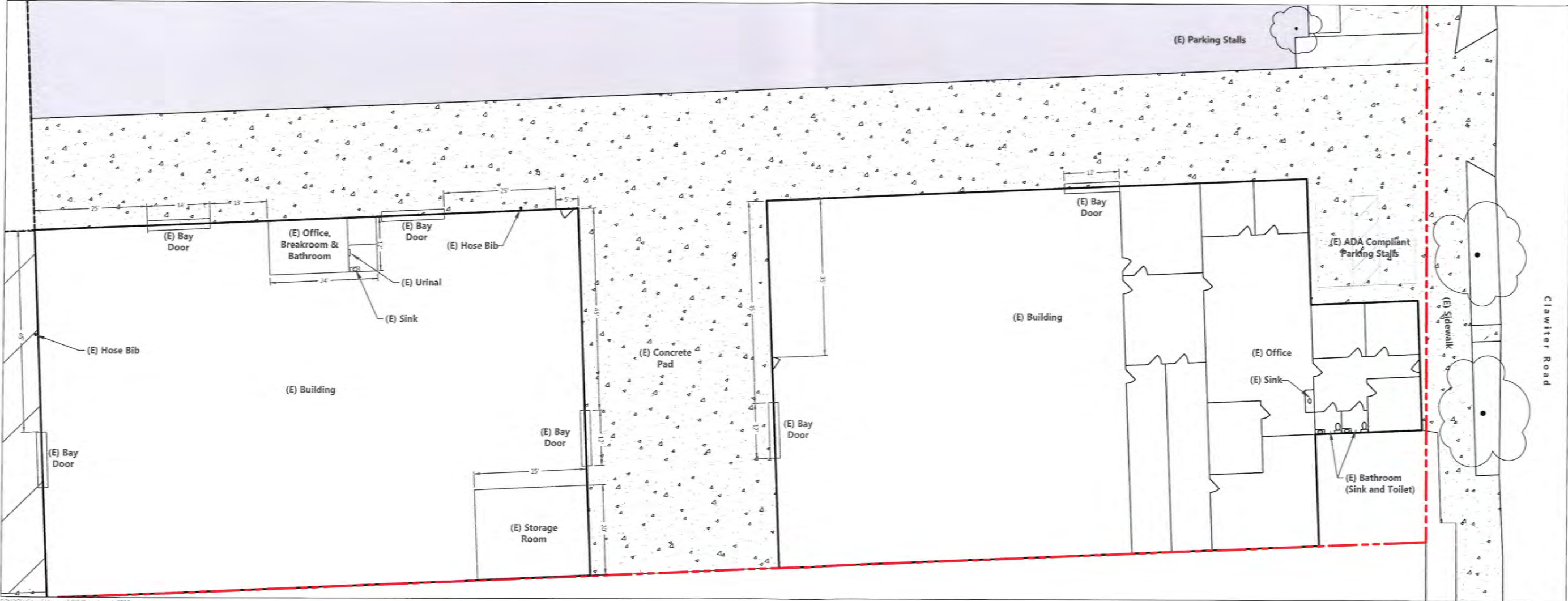
**Notes:**  
\*\* Although not shown in aerial Figure G2, the east portion of the site was paved with asphalt during summer 2012.  
\*\*\* See Figure G7 for detail.  
(E) Existing  
(N) New

**LEGEND**

	Property Boundary
	Proposed Concrete Recycling Facility
	Utilities
	Asphalt and Concrete Pad

**Utilities**  
BAY AREA CONCRETE RECYCLING  
Figure G6





SOURCE: City of Hayward GIS Department, 2020

**LEGEND**  
--- Property Boundary

**PROPERTY OWNER INFORMATION**  
Property Owner: S & A Investment Holdings, LLC  
Mailing Address: 24701 Clawiter Rd., Hayward, CA 94545-2225

**SITE INFORMATION**  
APN: 439-0020-002-03  
Zoning: I (Industrial)  
General Plan: IC (Industrial Corridor)  
Assessor Lot Size: 4.76 acres  
Landscaping Area: 0.07 acres  
Total Area of Interest: 2.15 acres

**Notes:**  
(A) Existing  
(N) New



**TBI Engineering**

**Enlarged Building Details**  
BAY AREA CONCRETE RECYCLING  
Figure G7



**Carl Emura**

---

**From:** Cynthia  
**Sent:** Thursday, May 3, 2018 2:17 PM  
**To:** Carl Emura  
**Subject:** 201801996 AUP HAYWARD PERMIT CENTER ZONING FOR CONCRETE RECYCLING FACILITY

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Regarding your request for opinion from neighboring property owners and businesses at 24701 Clawiter Road, Hayward.  
 If you value our opinion regarding this I'm afraid it's not going to be a positive opinion.

1. I have asked this Company 6 TIMES (yes, 6 - no exaggeration) **including once in person**, to PLEASE not make their U-Turns with their street sweeper in our driveway here at 24785 Clawiter Road. This causes not only ALL cars in the vicinity to be covered in dust and dirt every day, but by U-Turning in our driveway we have dealt with 2 flat tires that are caused from the nails and other debris that gets pushed up into the edges of our driveway. We're at the point where we will start charging them for the flat tires if it keeps up. The last time I called - and mind you I have asked VERY politely each time - a certain man was put on the phone to mock me and my conversation with him. In other words I was talked to very rudely. Each time I ask them to STOP this illegal U-Turn they say they will, but they consistently do it again. This includes the driver of the sweeping vehicle taunting us, sitting in our driveway for extended amounts of time and laughing at us during any attempt to ask him to stop.

2. They block the sidewalks with their employee parking. Two of us here have to walk past this company to get to work, and we have to walk either up by their front door or out into that very busy intersection. I thought blocking sidewalks was illegal?

3. It is unavoidable to breathe the dust at times and the dirt and rocks that go everywhere from this company leave the entire street looking trashy.

I have no solutions for you, but if you want our opinion, this is it. We have nothing personal against this company, nor does anyone at State Pipe even KNOW anyone personally at this company.

Thank you for listening,

--

Cynthia I

**Carl Emura**

---

**From:** ALAN I  
**Sent:** Thursday, May 10, 2018 10:34 AM  
**To:** Carl Emura  
**Subject:** 201501996 AUP - 24701 Clawiter Rd., Hayward, CA 94545

Dear Sir,

I am writing to you about the use permit for the concrete crushing facility at 24701 Clawiter Road, Hayward CA 94545.

I am VERY concerned that this facility can currently and legally operate in the City of Hayward with the lack of dust control (dust created by the crushing of concrete). I understand that the concrete crushing creates an airborne dust that put people within the area at a high risk of silica exposure if the dust is not contained or controlled properly (please see the OSHA information below).

I would like the City of Hayward to look into the issue of improper proper dust control measures. Since my employer is a facility just down-wind of this address I am quite concerned about my personal exposure to silica.

[Safety and Health Topics | Respirable Crystalline Silica | Occupational Safety and Health Administration](#)

**Safety and Health Topics | Respirable  
Crystalline Silica | Occupational Safety and  
Health Administration**

---

I believe the City of Hayward should require the operator of this concrete recycling facility be responsible not only to their employees, but also with the employees of all the neighboring businesses by being required to make modifications to the method of operations and completely illuminate the hazardous dust that all of the neighbors are being exposed to.

Personally, I can not believe the City of Hayward is allowing this business to operate as it is today - ESPECIALLY since I understand they have been operating without a permit for years.

**BE RESPONSIBLE TO THE CITIZENS AND WORKFORCE IN THE CITY OF HAYWARD!**



D.W. NICHOLSON

CORPORATION

INDUSTRIAL MECHANIZATION CONTRACTORS

May 8, 2018

Carl Emura, ASLA, Associate Planner  
City of Hayward, Planning Division  
777 B Street  
Hayward, CA 94541

Reference: Bay Area Concrete Recycling (BACR)  
201801996 AUP

Dear Mr. Emura:

We are in receipt of your Notice of Receipt of Application for a Temporary Administrative Use Permit application for the continued operation of a concrete recycling facility.

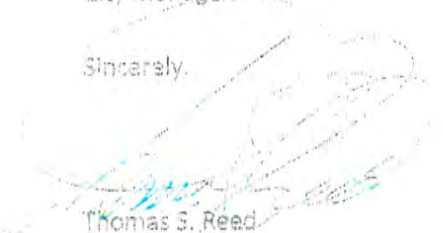
We strongly oppose the issuance of any Administrative Use Permit that does not require BACR to operate their business at any less stringent requirement than may be required at their attempted new relocation site at 3390-3898 Depot Road.

Please note that their attempt to sweep the streets are not effective and actually raises as much dust as it cleans up.

We have been subject to this continued nuisance for several years now, with the expectation that they would be moving. Apparently, this seems to no longer be the case.

I am enclosing a letter from our Attorney to the City Manager and the letter we received back from the City Manager.

Sincerely,

  
Thomas S. Reed  
President, C.E.O.

Enclosures

TSR/amc



JOHN J. VERBER  
jverber@burnhambrown.com  
Direct Dial (310) 835-6817

October 26, 2017

Kelly McAdoo  
City Manager  
CITY OF HAYWARD  
777 B. Street, Fourth Floor  
Hayward, CA 94541

Re: Public Health Threat at 24701 Clawiter Road, Hayward, CA

Dear Ms. McAdoo,

I write on behalf of D. W. Nicholson Corporation ("Nicholson"), a national mechanical, electrical, and structural steel fabrication firm located at 24747 Clawiter Road in Hayward, CA since 1985.

Concrete demolition activities by a neighboring business, Bay Area Concrete Recycling ("BARC"), generates a large volume of hazardous silica dust, much of which settles on our property. That dust not only adversely impacts our use of the property, but poses a significant health threat to our employees and others in the community, as crystalline silica has been classified as a human lung carcinogen.

Our efforts to amicably resolve this issue with BARC have been unsuccessful.

We understand from BARC that it hopes to relocate its operation to 3890 - 3898 Depot Road in Hayward, but that environmental concerns raised by the City and neighboring businesses have delayed final approval of the move. While we applaud the measures required by the City to protect human health and the environment before granting BARC approval to relocate, we do not understand why the same level of concern does not apply to BARC's current operation.

Kelly McAdon

Re: Public Health Threat at 24701 Clawiter Road, Hayward, CA


October 26, 2017

Page 2

We respectfully request the City investigate the potential public health impacts of BARC's operations at 24701 Clawiter Road in Hayward.

Very truly yours,

BURNHAM BROWN



John J. Verber

Counsel for D.W. Nicholson Corporation

JJV:elb

cc: Alex Ameri  
Director of Utilities & Environmental Services  
777 B. Street, Fourth Floor  
Hayward, CA 94541

Eusebio Espitia  
Code Enforcement Manager  
777 B. Street, 1st Floor  
Hayward, CA 94541





November 13, 2017

John J. Verber  
Burnham Brown  
P.O. Box 119  
Oakland, CA 94604-0119

Via email to: [jverber@burnhambrown.com](mailto:jverber@burnhambrown.com)

Subject: Bay Area Concrete Recycling

Dear Mr. Verber:

Thank you for your letter of October 26, 2017 regarding Bay Area Concrete Recycling (BACR), which is located at 24701 Clawiter Road. The City has been working with BACR in an attempt to bring them into compliance for some time. In 2016, staff issued a notice of violation to BACR for multiple code violations at the Clawiter site and staff has continued to pursue enforcement of the violations. BACR must obtain a use permit for concrete crushing and recycling or cease all unpermitted activities at the Clawiter site. The City's Code Enforcement staff will continue to actively monitor the site and issue failed inspection fees until full compliance is achieved.

The City's Utilities and Environmental Services Department has also taken enforcement actions to address potential impacts to storm water runoff. Staff has directed BACR to sweep their point of entry to the facility to limit the dust that is tracked out through the ingress/egress point of the facility. Regarding air quality and dust issues, please contact the Bay Area Air Quality Management District. The BAAQMD has jurisdiction over air quality and actively enforces violations.

As you are aware, BACR is attempting to relocate to 3890 – 3898 Depot Road. An administrative use permit was approved for the Depot Road location and staff has been working with BACR to resolve final design details including dust mitigation.

If you have questions or would like additional information relating to our on-going enforcement efforts at this property, please contact Senior Code Enforcement Inspector, Phil Nichols, directly at [Phillip.Nichols@hayward-ca.gov](mailto:Phillip.Nichols@hayward-ca.gov) or 510-583-8542.

Sincerely,

Kelly McAdoo  
City Manager

**Carl Emura**

---

**From:** TJ Simmons  
**Sent:** Thursday, October 11, 2018 4:59 PM  
**To:** Carl Emura  
**Subject:** 24701 Clawiter Rd, Hayward, CA 94545  
**Attachments:** IMG\_1111.JPG; IMG\_1110.JPG

Carl,

Following up on our phone conversation yesterday regarding the neighboring property at 24701 Clawiter Rd, Hayward, CA 94545.

We as neighbors, have 3 major concerns with the ongoing operation currently being conducted at the subject property.

First and foremost we are concerned about the safety of our employees and guest. As you can see in the attached picture, the operation has continually crept closure to our property causing the large mountain of debris to encroach across the boundary line and destroy our fence. While property damage can be fixed, our main concern comes from the potential of large boulders or masses of concrete to come tumbling down and hit someone. This type of activity has been witnessed by our staff and creates a condition in which we cannot allow employees to work near the property line.

Second, and also related to health and safety, is the amount of dust and air borne particulates created. While there seems to be some dust control measure in place, more often than not we experience large amounts of dust transferring onto our property effecting both our employees and equipment. We have made several complaint to both the city and the neighbor themselves with no measurable results.

Our last concern is related to storm water runoff. It is not immediately evident to us that the neighboring property has installed the necessary storm water runoff protection. More so, we are extremely concerned the large mountain of dirt and rock will divert water onto our property putting us at risk of storm water runoff violations. As you can see from the attached pictures, this is a likely outcome with the current situation and needs to be remedied immediately.

If you have any questions, please feel free to call me at

Best,

TJ Simmons | SVP Operations



D: +1 510.300.9322. | C: +1 650.444.4460

**Corporate Headquarters**

6701 Koll Center Parkway, Suite 150 | Pleasanton, CA 94566

**Manufacturing Operations**

24493 Clawiter Rd | Hayward, CA 94545

[www.ConXtech.com](http://www.ConXtech.com)



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**CITY OF HAYWARD**  
**DEVELOPMENT SERVICES DEPARTMENT**  
**CODE ENFORCEMENT DIVISION**

777 B Street, Hayward, CA 94541-5007  
 (510)583-4143 - Fax: (510)583-4994 - www.hayward-ca.gov

### 3rd or SUBSEQUENT NOTICE OF VIOLATION: EGREGIOUS

October 11, 2018

S&A INVESTMENT HOLDINGS  
 P.O. BOX 525  
 UNION CITY, CA 94587

**CASE NO:** CE-16-3604  
**LOCATION:** 24701 Clawiter Rd  
**APN:** 439-0020-002-03  
**INSPECTION DATE:** October 11, 2018

A recent inspection of the referenced property showed that the violations were not satisfactorily corrected in accordance with the Notice of Violation mailed to the property owner(s), and continue to be in violation of Hayward Municipal Code (HMC) Section 5-7.20, Public Nuisance, California Building Code, and/or other adopted City, State or Federal code(s) or ordinances. **An additional failed inspection and penalty fee of \$5,000 has been assessed for a total of \$59,500.**

The following corrections must be completed prior to the next compliance date of November 11, 2018 to avoid additional fees and penalties.

HMC or CODE	VIOLATION	CORRECTIVE ACTION
HMC Section 5-7.20, Public Nuisance - Unlawful	Property condition unlawful, detrimental to public health, safety, and/or general welfare.	It shall be unlawful for any responsible party owning, leasing, renting, occupying, or having charge or possession of any property in the City to maintain or to allow to be maintained such property in a condition detrimental to public health, safety, or general welfare or in a condition which violates any code or ordinance adopted by the City. Every owner of real property within the City shall manage that property in such a manner to avoid violation of this code. The property owner shall be responsible for violations thereof, regardless of any contract or agreement with any third party regarding the property. Where there are multiple property owners, the property owners shall have joint and several liability. Public nuisance is defined as, however not limited to, anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable or safe enjoyment of life or property of the community, or any portion thereof, or neighborhood therein. <b>Corrective Action:</b> Correct violations of



		adopted building codes as identified in this Notice of Violation. All Building permits required as a result of this Notice of Violation must be finalized no later than 120 days from the date of permit issuance.
California Building Code Section 105.1, Permits Required	Construction without the required building permit(s).	<p>Construction without the required building permit(s).</p> <p><b>Corrective Action:</b> Submit plans and obtain required building permit for un-permitted first and second floor office space constructed at warehouse interior. To include all electrical, plumbing, heating and ventilation, and mechanical systems installed in un-permitted office space. OR obtain demolition permit and restore warehouse section of front primary structure to original approved construction. Visit City of Hayward Permit Center located at 777 B Street, First Floor, and obtain the required approval and/or permit(s) before the next re-inspection date. Violations identified as construction/remodel projects completed without the required building permit(s) will result in a \$125 fee illegal construction and two times (2x) the required permit fees in addition to regular permit fees in accordance with the City of Hayward Master Fee Schedule.</p>
HMC Section 10-1.180, Zoning Ordinance Violation, Conditional or Administrative Use Permit Requirements	Violation of the Zoning Ordinance, including but not limited to permitted uses and approval of a Conditional or Administrative use permit, conditions of approval, building permits or other required or approved permit.	<p>It shall be unlawful for any person, firm, property owner, business proprietor, or corporation to cause or permit any violation to the provisions of this ordinance, or to fail to comply with any of its requirements, including plans and conditions in connection with approval of a planned development district, site plan review, conditional use permit, administrative use permit, variance, or other approved permit.</p> <p><b>Corrective Action:</b> Concrete crushing and recycle activities not approved under last approved use permit # 10920. Obtain Planning Approval and approved use permit for Concrete crushing and recycling at site OR cease all un-permitted activities at site not approved in use permit 10920 to include: concrete recycling and crushing activity.</p>

Failure to comply and satisfactorily eliminate all violations by the compliance date will result in **an additional failed inspection and penalty fee of \$5,000**, and/or other available legal remedies, including but not limited to abatement by the City contractor. A reinspection will be conducted on **November 11, 2018** to verify compliance.

If you have any questions regarding this notice or wish to request an alternate date, please contact the inspector at (510) 583-8542 or via email at [phillip.nichols@hayward-ca.gov](mailto:phillip.nichols@hayward-ca.gov) prior to next compliance date.

PHILLIP NICHOLS

Senior Code Enforcement Inspector

Encl: Attachment "A", Fee Inspection Schedule

Cc: OWNER: S&A INVESTMENT HOLDINGS, TRUSTEE: Agent Of Service - B.A.C.: Preet Johal,  
LEGAL OWNER: Kevin Singh -S/A Investment Holdings



**PROOF OF SERVICE  
STATE OF CALIFORNIA, COUNTY OF ALAMEDA**

Attachment "A"

I, Phillip Nichols, am over the age of 18 and employed by the City of Hayward, 777, "B" Street, Hayward, Alameda County, California 94541. On October 11, 2018, I served the following document(s) on the interested parties in this action by sending true copies as shown below for service as designated below:

\* ERG - Notice of Violation - FAILED, APN: 439-0020-002-03, Case #: CE-16-3604; & Attachment "A"

**SERVICE BY U.S. MAIL UNDER THE LAWS OF THE STATE OF CALIFORNIA**

S&A INVESTMENT HOLDINGS  
P.O. BOX 525  
UNION CITY, CA 94587

I am familiar with this business' practice for collection and processing of correspondence for mailing, and that correspondence will be enclosed in a sealed envelope with postage fully prepaid and deposited with the U.S. Postal Service on the date herein above in the ordinary course of business at Hayward, California.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed on October 11, 2018, at Hayward, California.

**PHILLIP NICHOLS**

Senior Code Enforcement Inspector

**FAILURE TO COMPLY:** Partial compliance or continued violations will result in additional inspection and penalty fees and/or other available legal remedies. If the violations are abated by the City, the property owner(s) will be billed for all abatement expenses, fees and penalties. Non-payment will result in a lien/special assessment against the property.

Egregious Violation Penalties: (1) Tier 1: \$1,500 for first verified violation; (2) Tier 2: \$3,000 for second verified violation; and (3) Tier 3: \$5,000 for third and subsequent verified violation(s).

Violations of California Building Code Section 105.1, and California Residential Code R105.1; Permits Required, are subject to an initial 5% code violation fee and two times (2x) the required permit fees in addition to the regular Building Division Permit Fee in accordance with the City of Hayward Master Fee Schedule.

Identified unsafe conditions resulting in posting of Placards for Condemnation will incur a posting fee of \$164/hour in accordance with the Master Fee Schedule.

Violation(s) of Hayward Municipal Code Section 10-8.10, Grading/Clearing Permit Required, are subject to A \$2,000 code enforcement investigation fee and an initial \$125 illegal project fee in addition to any applicable violation inspection and penalty fees in accordance with the Master Fee Schedule.

In accordance with Sections 17274 and 24436.5 of the Revenue and Taxation Code, certain tax deductions may not be allowed in the taxable year for nuisance violations pertaining to substandard housing in the State of California.

**HAYWARD MUNICIPAL CODE & OTHER CODE SECTIONS:** Copies of the Hayward Municipal Code sections are available for review in the City Clerk's Office or via the internet by accessing the City's website at: [www.hayward-ca.gov](http://www.hayward-ca.gov) and searching for "Hayward Municipal Code". To view other department information, search for "Code Enforcement Division".

October 2018

# DOCUMENTATION OF BUSINESSES AT 24701 CLAWITER ROAD

## ECONOMY TRUCKING SERVICES BAY AREA CONCRETE RECYCLING SLURRY SOLUTIONS

**Submitted To:**

Bay Area Concrete Recycling LLC  
24701 Clawiter  
City of Hayward, CA 94545

**Submitted By:**

TBI Engineering  
Civil Environmental Engineers  
480 Tan Oak Terrace  
Sunnyvale, CA 94086



**Distribution:**

1 copies – Bay Area Concrete Recycling LLC  
1 copies – City of Hayward

*Signed & Stamped on  
October 22, 2018*



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## LIST OF FIGURES

SHEET 1      Topographic Site Map inclusive of Business Delineations

## ATTACHMENTS

Attachment A	Slurry Solutions Business License
Attachment B	Economy Trucking Services Business License

## EXECUTIVE SUMMARY

As part of the Continuance for Temporary Permit AUP application by Bay Area Concrete Recycling LLC (BACR) has committed that all “users and uses” on the 24701 Clawiter Road Address would be identified and furthermore identified where each business operates on the Detailed Site Map (Sheet 1).

This “documentation of uses” package as detailed below consists of description of the businesses, with a detailed existing project description of each of the businesses, project operational details and project environmental controls.

In summary there are three (3) businesses operating at the 24701 Clawiter Road address as of October 2018:

- **Economy Trucking Services:** a fully service truck repair facility, solely occupying the maintenance shop and tire shop. Due to the inherent nature of the repair of trucks, some trucks are parked outside the maintenance facility waiting to be repaired on paved, improved surface. Heavy equipment from a contractor is temporary stored at the site; mainly to be maintained and repaired in the northeastern portion of the yard, no rental of equipment is occurring. Economy Trucking Services has a valid business license in the City of Hayward (attachment A).
- **Slurry Solutions** occupies the site more towards the southwestern portion of the site behind the maintenance shop on a concrete pad. At Slurry Solutions the contaminant-free slurries/soils (wet spoils) received at this commercial facility are typically generated during physical utility location in public right of ways, and directional drilling for placement of underground pipes or utilities or other private property construction. The service offered at this location, operated on concrete pavement separates the “soils/solids” (dirt) from the water. Water is reused in the process and provides dust control water for the Bay Area Concrete Recycling facility as well. Slurry Solutions has a valid business license in the City of Hayward (Attachment B). The facility does not recycle (and is NOT a recycling facility) since recycling is defined<sup>1</sup> as: using waste as material to manufacture a new product. Recycling involves altering the physical form of an object or material and making a new object from the altered material. The facility is however, reusing the wet spoils as it is not “manufacturing” a new object. Reuse is defined as: using an object or material again, either for its original purpose or for a similar purpose, without significantly altering the physical form of the object or material.
- **Bay Area Concrete Recycling** is a Type A inert processing facility and is located on the 2 to 2.5 acres in the northwestern portion of the site. Typically raw materials, consisting of broken concrete, bricks, and asphalt are “crushed” into smaller pieces which are then resold as a Recycled Caltrans Type II Aggregate Base or potentially further screened into recycled drain rock and sand. Bay Area Concrete Recycling does not have a business license in the City of Hayward; it does have the majority of the other required “use

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<sup>1</sup> <https://www.calrecycle.ca.gov/reducewaste/define#Recycling>

permits to operate at the site”. BACR is working on appropriate permanent airboard permits versus the current temporary permits it is operating under.

- **Ambreesh Cosmetics** used to have offices at 24701 Clawiter Road; however it recently moved to its new Winton address and has a Business License in the City of Hayward at the Winton address.

This “documentation of uses” packages finish with a brief summary.

## ECONOMY TRUCKING SERVICES

This detailed business description details how the Economy Trucking Service facility operates.

### ECONOMY TRUCKING SERVICES BUSINESS SETTING

This business is located in the City of Hayward on the southeastern portion of a 4.76-acre site (parcel 439-0020-002-03) at 24701 Clawiter Road. The property is zoned Industrial and is surrounded by industrial uses. The nearest residence is approximately 1,500 feet from the property. The entire property has industrial uses to the north and south, Clawiter Road borders the property to the east and a Union Pacific railroad corridor borders the property to the west (Sheet #1).

### ECONOMY BUSINESS DESCRIPTION

**Economy Trucking Services:** a fully service truck repair facility, solely occupying the maintenance shop and tire shop. Due to the inherent nature of the repair of trucks, some trucks are parked outside the maintenance facility waiting to be repaired. Heavy equipment from a contractor is stored at the site; to be maintained and repaired in the northeastern portion of the yard. Economy Trucking Services has a valid business license in the City of Hayward.

Adequate Parking spaces are provided along the southeastern portion of the site (see sheet #1).

### ECONOMY BUSINESS OPERATIONS

#### Personnel

Economy Trucking Services truck repair shops has a total of 5 permanent repair technicians under the direction of a shop manager. The front office manages the accounting and financial components of the business and has a total of 7 people managing the business under the leadership of the General Manager, Mike Mostipak.

#### Hours of Operation

Economy Trucking Services truck repair shops operates 24 hours a day and 7 days a week, but will typically operate the facility 6 days a week from 5.30 a.m. to 5.30 p.m.





## Traffic Flow

Trucks enter the site either from the one-way portion of Clawiter road where it splits into Industrial Boulevard. Trucks will then make a right-hand turn into the property from Clawiter, trucks could be entering the facility from the south as well either from Clawiter or Industrial Road. All truck traffic will have a designated flow pattern after entering the site. The trucks will drive towards the maintenance shop. They then either proceed into the maintenance shop or they get an allocated parking spot onto concrete pavement. All outbound trucks travel past the existing tire shop on the right toward Clawiter Road and either proceed straight to access Industrial Boulevard or make a right-hand turn and proceed south on Clawiter Road.

## Slurry Solutions

This detailed business description details how the Slurry Separation and Reuse™ (SS&R™) facility operates at Clawiter Road.

### SS&R™ BUSINESS SETTING

This business is located in the City of Hayward on the southwestern portion of a 4.76-acre site (parcel 439-0020-002-03) at 24701 Clawiter Road. The property is zoned Industrial and is surrounded by industrial uses. The nearest residence is approximately 1,500 feet from the property. While there are two easements that are along the western portion of the property, parallel with the rail road tracks. The first being a PG&E Gas Line easement that requires a 15 foot setback and the second is a City and County of San Francisco Water Pipeline easement that requires a 40 foot setback. The SS&R™ facility most western point starts at the 40 ft setback.

### SS&R™ BUSINESS DESCRIPTION

Slurry “Waste” Solutions occupies the site more towards the southwestern portion of the site behind the maintenance shop on a concrete pad. At Slurry Solutions the contaminant-free slurries/soils received at this commercial facility are typically generated during physical utility location in public right of ways, and directional drilling for placement of underground pipes or utilities or other private property construction. The service offered at this location, operated on concrete pavement separates the “soils/solids” (dirt) from the water. Water is reused in the process and provides dust control water for the Bay Area Concrete Recycling facility as well. Slurry Solutions has a valid business license in the City of Hayward.

### SS&R™ DETAILED BUSINESS OPERATIONS

#### Personnel

Slurry Solutions has a total of 2 treatment technicians under the direction of a supervisor. The front office manages the accounting and financial components of the business and has a total of 3 people managing the business under the leadership of the CEO and General Manager, Kevin Oliveiro.

## Description of Operations

Slurry materials generated by hydro excavation to locate physical utility location in public right of ways, and directional drilling for placement of underground pipes or utilities or other private property construction is separated into its different texture classes gravel, coarse and fine sands, and fine soils. Slurry Materials (wet spoils) are brought to the site in trucks with typically vacuum trailers, tankers or equivalent. Trucks will unload their slurry into the hopper located on the eastern portion of the facility from the access ramp. From there the material falls by gravity over a high capacity screen deck, which separates the 1/16<sup>th</sup> fraction of the materials and deposits the gravel material into a ramp area. The remaining slurry materials gets pumped over additional screens which remove the coarse sands and then the finer sands. The remaining final slurry materials are separated in a decanter centrifuge and moved along with a conveyor belt which stockpiles this material into a finished stockpile. Typically, a front-end loader takes the finished stockpile materials and loads it into trucks that have come to the facility for clean imported fill materials and are reused for urban infill projects.

## Hours of Operation

The business operates potentially 7 days a week, but will typically operate the facility 6 days a week from 7.30 a.m. to 5.00 p.m.

## Traffic Flow

Trucks enter the site either from the one-way portion of Clawiter road where it splits into Industrial Boulevard. Trucks will then make a right-hand turn into the property from Clawiter, trucks could be entering the facility from the south as well either from Clawiter or Industrial (Sheet 1). All Slurry truck traffic will have a designated flow pattern after entering the site. The trucks will drive parallel towards the southern property line towards the western portion of the property, where the SS&R™ facility is located. The inbound vacuum or tanker trucks stop near the yard manager to complete the tags and to be load-checked. Following checks, the trucks continue directly to the facility to unload their load into the hopper. All outbound trucks travel past the existing warehouse structures on the right toward Clawiter Road and either proceed straight to access Industrial Boulevard or make a right-hand turn and proceed south on Clawiter Road.

## BAY AREA CONCRETE RECYCLING (BACR)

This detailed business description details how the temporary Type A inert concrete/asphalt recycling facility operates at Clawiter Road.

### BACR BUSINESS SETTING

The business is located in the City of Hayward on the northwestern portion of a 4.76-acre site (parcel 439-0020-002-03) at 24701 Clawiter Road. The property is zoned Industrial and is surrounded by industrial uses. The nearest residence is approximately 1,500 feet from the property. The property has industrial uses to the north and south, Clawiter Road borders the property to the east and a Union Pacific railroad corridor borders the property to the west (Sheet #1). There are two easements that are along the western portion of the property, parallel with the rail road tracks. The first being a PG&E Gas Line easement that requires a 15 foot setback and the second is a City and County of San Francisco Water Pipeline easement that requires a 40 foot setback.

### BACR BUSINESS DESCRIPTION

The Type A Inert Recycling operation was developed and is operational on the northwestern (back) approximately 2.15 acre portion of the site, beginning approximately 375 feet from Clawiter Road (Sheet 1). The remaining portion of the northwestern site will remain hard compacted ground and will accommodate the raw material stockpile, crushing equipment, and finished aggregate stockpile. A secondary contained portable bathroom facility will be available between both warehouse building structures. Adequate Parking spaces will be provided along the southeastern portion of the site and the northeastern portion of the property will also have a 10 ft landscaped area (consisting of a vegetated swale) along the northern fence line as required by the municipal code.

### BACR DETAILED BUSINESS OPERATIONS

#### Description of Operations

Type A inert demolition debris from demolition construction business is reprocessed and broken down to create Caltrans Recycled Aggregate Base for new construction projects. Broken Type A inerts are brought to the site in trucks with typically end-dump trailers or equivalent. Trucks will unload their broken concrete/asphalt (type A inerts) into the raw material stockpile located in the far western portion of the site. From there the concrete is moved with the use of a front-end loader or excavator and deposited into the crusher. The crusher does breakdown larger pieces of concrete and screens the broken concrete into the desired size of the aggregate base. When the aggregate base meets the desired size, it is separated and moved along conveyor belt(s), which empties the aggregate base rock into a finished stockpile. The front-end loader takes the aggregate base from the finished stockpile and loads it into trucks that have come to the facility for aggregate base.

#### Hours of Operation

The business is seeking a temporary permit to operate 24 hours a day and 7 days a

week, but will typically operate the facility 5 days a week from 7.30 a.m. to 3.30 p.m.

### Traffic Flow

Trucks enter the site either from the one-way portion of Clawiter road where it splits into Industrial Boulevard. Trucks will then make a right-hand turn into the property from Clawiter, trucks could be entering the facility from the south as well either from Clawiter or Industrial (Sheet 1). All truck traffic will have a designated flow pattern after entering the site. The trucks will drive towards the northern property line to western portion of the property, where the type A inert recycling facility is located. The inbound trucks stop near the yard manager to complete the tags and to be load-checked. The loads of recycled concrete/asphalt are monitored for contaminated or potentially illegal materials. Following inspection, the trucks continue counter-clockwise to the concrete raw material pile to drop their load. They then either proceed back to the yard manager or they receive a new load of finished aggregate base rock that has been produced from crushing and screening the recycled concrete/asphalt. All outbound trucks travel past the existing warehouse structures on the right toward Clawiter Road and either proceed straight to access Industrial Boulevard or make a right-hand turn and proceed south on Clawiter Road.



## ENVIRONMENTAL CONTROLS FOR THE DIFFERENT BUSINESSES

### Hazardous Materials

While the **Economy Trucking Services** shop works inherently with “hazardous materials” such as new oils, used oils, and other oily substances; as well as compressed gasses (torching and welding). The Economy Trucking Services has the appropriate controls, such as secondary containment for oils, as well as an appropriate Spill Prevention Controls and Countermeasures Plan (SPCC plan) to have and manage those type of materials in the Maintenance Shop.

The **SS&R™ facility** only processes “clean” slurries, as a result hazardous material would have been “eliminated” into the pre-screening process. Which consists of analytical testing and documenting that materials are being extracted from a clean (non-impacted) site.

For **Bay Area Concrete Recycling** to prevent hazardous materials from being dumped with the loads of broken concrete, the yard manager inspects the materials received at the site for potential contamination, with particular attention to color and request source of the type A inerts. If materials are stained, or exhibit any form of petroleum contamination, they are rejected. The yard manager can use a photo ionization detector (PID) to evaluate any volatile organic compounds that may be detected from the soil contained in a load. If the levels exceed 10 particles per million (ppm), the materials are rejected and cannot be allowed to dump.

All equipment used at the entire property are powered with diesel fuel or be electric powered and all be registered with DOORS. Typically, a diesel refueling truck from an outside contractor visits the site daily to refill the trucks' fuel tanks. Any other petroleum product or hazardous material in small quantities necessary to operate the Economy Truck Services and concrete recycling plant are stored inside the maintenance shop with appropriate controls.

### Noise

The most substantial levels of noise generated from the operation on the entire parcel are the diesel engines of the heavy equipment on-site that are used to move the materials from typically one stockpile and into the processing equipment, or other stockpile. The crushers and vibrating screens of the crushing and Slurry plant are a source of noise from the operations. However, based on reports by the equipment's manufacturer(s), that noise is dissipated to approximately 50 decibels at a distance of 200 feet away. Therefore, the noise levels will be at/or below 50 decibels at the property line. Raw Material stockpiles and finished material stockpiles can, and should, be optimally situated to block noise from areas of concern.

### Dust Control

While dust is generated potentially by trucks (by releasing the air underneath the motor compartment) from the **Economy Trucking Services**, this will be improved by repairing

the broking pavement currently present in front of the maintenance and tire shops (see next section).

Typically, “none” to any dust is generated from the **Slurry Separation and Reuse facility**. Mainly because of the inherit nature of the wetness of the material(wet spoils) received.

Dust from the **Bay Area Concrete Recycling** facility is controlled using a state-of-the-art dust suppression system designed specifically for the crushing equipment that is used at all times at this facility. The spray system is manually controlled using shut-off valves that enable the operator to adjust the amount of water used at each location of the crushing and screening plant in accordance with airboard regulations. The water used in the state-of-the-art dust suppression system pulls water from the Slurry Separation and Reuse™ facility.

Near the dumping area of the raw material trucks a Dustboss™ DB-30 shall be installed to control the dust generated there. The Dustboss™ will provide a small particle mist to knock down those.

Furthermore, a water truck will be used to wet the nonpaved areas of the facility during dry seasons, a regenerative sweeper will be utilized to vacuum the dust particles on the concrete or asphalt paving. The water truck will also pull water from the Slurry Separation and Reuse™ facility.

### Stormwater

A stormwater pollution prevention plan has been prepared under the General Industrial Stormwater Permit for the Slurry Separation and Reuse™ facility through the Regional San Francisco Bay Area Regional Water Quality Control Board. The northwestern portion of the facility is currently graded so that surface waters flow toward the Slurry Separation and Reuse™ facility (Sheet #1). The Slurry Separation and Reuse™ facility has the capacity to contain all of the stormwater generated from the back portion of the site. Stormwater generated from the type A inert facility is not released into a municipal stormwater system. The type A inert facility together with the Slurry Separation and Reuse™ facility are self-contained.

Sediment track-out from the unpaved portions of the site is a potential realistic scenario. The facility has installed a total length of 32ft long track out grates (TOG) assembly which every truck needs to drive over before transitioning on the paved portions of the site. Furthermore, a regenerative sweeper is operated at all times the facility is in operation to assure that sediment trackout is controlled at all times on the paved portions of the facility as well as onto the public driveway.

## SUMMARY OF PROPOSED ADDITIONAL ENVIRONMENTAL CONTROLS

The City of Hayward has identified potential immediate treats to Health and Safety at the multiple businesses. The below is a summary list of the commitments the owner and businesses are willing to make to address the environmental aspects mainly related to dust and water (surface water run-off).

### Site Wide Improvement and Actions

- A licensed Civil Engineer and landscape architect was retained by October 15, 2018 to complete a set of site improvement plans and landscape plans for the frontage improvements (a minimum 20 ft landscape buffer and decorative screen wall and ornamental gate) alongside Clawiter Road. The selected Civil Engineering firm is Milani and Associates (<https://www.milaniassociates.com/about.html>) and the selected Landscape Architect is Thomas Baak And Associates, LLP to submit a full set of frontage improvement plans is end of October 2018.
- The Civil Engineer will prepare a full set of Site Improvement plans based on the completed topographic survey exhibit. The Site Improvement plans will be submitted to the City of Hayward by the end of November 2018. The site improvement plans show existing pavement and drainage infrastructure on the entire parcel and will include a set of grading, drainage and pavement plans.

### Economy Trucking Services (Economy)

#### *Ultra Short Term*

- Submit the required improvement plans for downstairs and upstairs remodel in the tire shop to become compliant with California Building Code (CBC).
- Certain designated truck parking spots to temporary store trucks have been so severely trafficked that the asphalt or concrete pavement is in grave disrepair. Economy to repair those locations in grave disrepair immediately.
- While trucks are awaiting repair or tire changes, the air release from motor compartment has a potential to blow a lot off dust left on the pavement. Economy to sweep the entire improved parking lot (curb to curb or edge to edge) early morning and late evenings while there is minimal car and truck storage on the improved surfaces.
- While we are transitioning into the rainy season, no equipment shall be stored on unimproved areas, equipment (inclusive of wrecked trucks or other) stored for longer time periods (greater than 1 week) shall have all fluids drained and will be tarped.

#### *Medium Term*

- While some storage is placed in between tire and equipment buildings. The majority of equipment stored needs to be stored inside.
- Upon storage rack anchorage calculation approval by the City, storage racks to be moved inside and appropriately anchored.

#### *Long Term*

- While the majority of activities are contained indoors, the used oil tank remains outdoors, it is proposed to transition that above ground used oil storage tank indoors.

## Bay Area Concrete Recycling (BACR)

### *Ultra Short Term*

- Dust Control is critical, BACR air quality consultant identified to use Magnesium Chloride or Calcium Chloride while applying water on the unimproved roads.
- Installation of state-of-the-art mister units at each of the crushing equipment, to minimize fine dust being generated. This was suggested by Dustboss consultant reviewing the facility to minimize dust generated from equipment operating onsite.
- While the surface water run-off is designed to flow to the Slurry Facility. Optimize grading of the access roads to assure that is directed to the Slurry Facility.
- All trucks to be reviewed to make sure the tires are clean when they transition to the paved areas, potentially pressure washed at the wash rack and ensure they drive over the trackout grates.

### *Medium Term*

- A **25 ft wide concrete access road** with concrete ultrablocks (or approved similar) and 10ft wide bioswale will be installed alongside the entire northern portion of the site as future access to the site. This will be proposed as part of the site improvement plans to be submitted to the City of Hayward by end of November 2018.
- Installation of state of the art Dustboss DB-30 to control dust generated at the dumping area, which generates the majority of the dust at the facility.
- Prior to dumping, installation of overhead sprinkler unit to pre-wet the loads to minimize dust from being generated while dumping.

### *Long Term*

- Installation of improved surface for trucks to drive toward the dumping area, as well as exit towards the slurry facility. As proposed in the improvement plans generated by Civil Engineer for the site.
- Potential partial canopy over the crushing operations to minimize the generation of any windblown dust from the crushing operation.

## Slurry Solutions

### *Ultra Short Term*

- Minimal dust is being generated at the facility. No immediate action required.
- After review of topographic study, identify if entire facility is on improved surface (concrete) and graded to drain toward the appropriate slurry sump.
- Ensure that any potential slurry does not get tracked out, by immediate cleaning of the access ramp prior to tracking to occur once a truck leaves the access ramp.
- The partially completed **concrete curb** to delineate the materials on the southern side of the site will have the existing chainlink fence replaced to the original condition and the concrete block wall/curb completely finished/repared to the end of the parcel to the West. The concrete block wall/curb repairs on the southern side of the site will be completed by end of October.

### *Medium Term*

- Complete full, competent concrete block wall/curb along the southern boundary of the facility footprint.

### *Long Term*

- None forecast



Agreed by Economy Trucking Services Representative



Mike Mostipak  
Chief Operations Manager

Agreed by Slurry Solutions LLC



Kevin Oliveiro  
CEO

Agreed by Bay Area Concrete Representative



Kimberly Douglas  
Account Manager

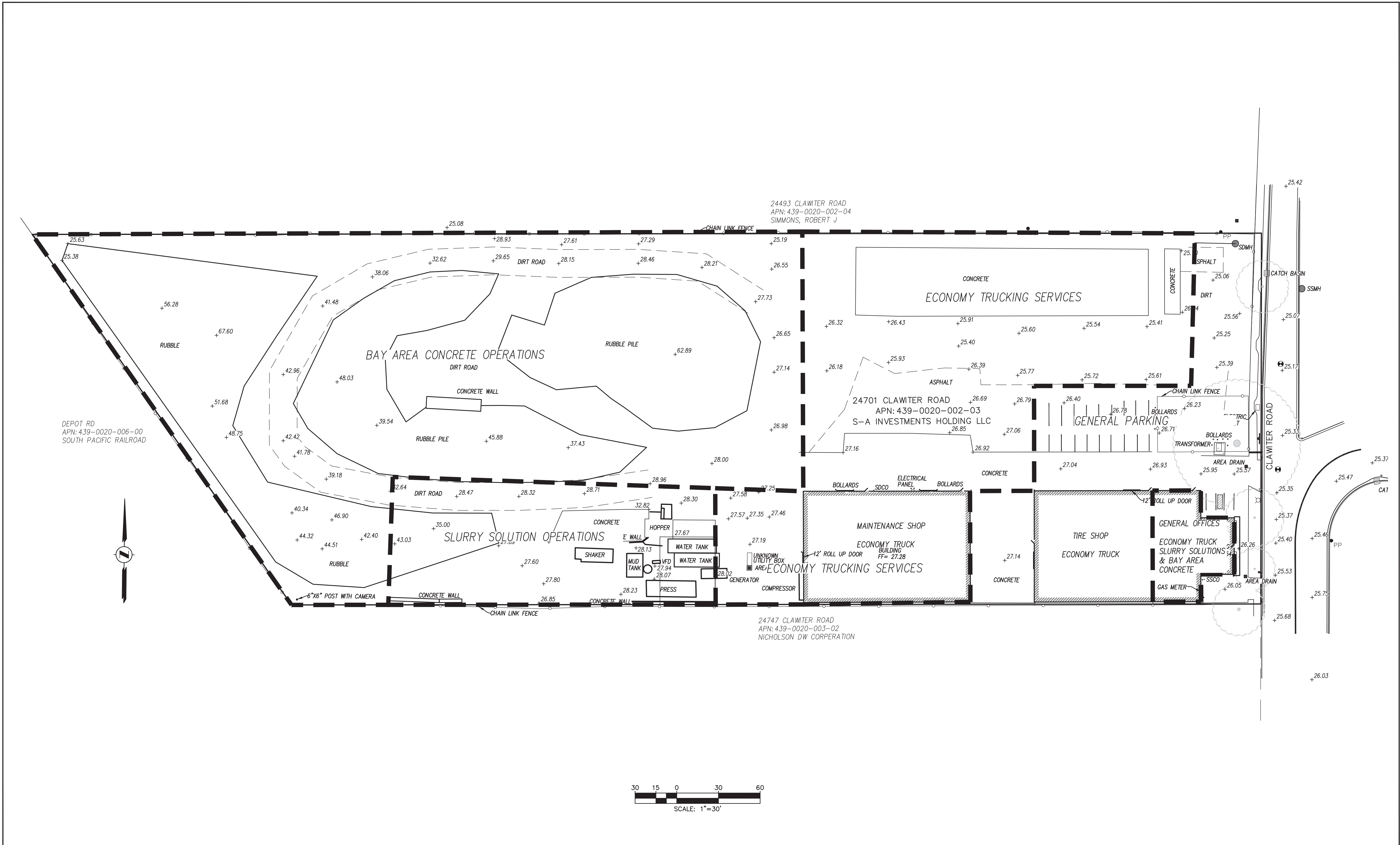
Agreed by S&A Investment Holding LLC Representative




Carlos Pasos  
Director of Operations

## FIGURES

**TOPOGRAPHIC SITE MAP INCLUSIVE OF BUSINESS DELINEATIONS**



Planning  
Surveying & Mapping  
Land Development Engineering  
Municipal Engineering  
Construction Staking  
Environmental Engineering  
SWPPP Monitoring & Reporting



**MILANI**  
& Associates

2655 Stanwell Drive, Suite 105  
Concord, CA 94520  
Phone: (925) 674-9082  
Fax: (925) 674-9279  
Web: [www.milaniassociates.com](http://www.milaniassociates.com)

**24701 CLAWITER ROAD**

**S&A INVESTMENTS**  
CONTEXTUAL SITE PLAN  
ALAMEDA COUNTY


**HAYWARD**

**APN 439-20-2-3**

**CALIFORNIA**

DESIGNED UNDER THE DIRECTION OF:

MICHAEL E. MILANI L.S. No. 5311 REGISTRATION EXPIRES 12/31/19		DATE
DESIGN:	JOB NO: 1268	
DRAWN: BMW	DATE: OCTOBER 2018	
CHECKED: MEM	SCALE: AS SHOWN	



NO.	REVISIONS	BY	APP	DATE

SHEET	<b>1</b>
OF	<b>1</b>
SHEETS	

R:\Jobs\1268\Exhibits\S&A SITE EXHIBIT.dwg S&A SITE PLAN 10-22-18 04:52:41 PM MikeMilani



## **ATTACHMENTS**

**ATTACHMENT A  
SLURRY SOLUTIONS BUSINESS LICENSE**

City of Hayward  
City of Hayward Revenue Division  
777 B STREET  
HAYWARD, CA 94541  
(510) 583-4600  
www.Hayward-CA.gov

# HAYWARD

3rd Street  
A 94541-5077  
TDD (510) 247-3340  
E DIVISION  
TAX FORM 1  
ward-ca.gov

This is your receipt when validated.

Valid from 5/28/15 through 12/31/15

Post until "Valid through" date.

## For Office Use Only

Tax # 1593

SIC Code

Renewal Period (A, Q, or O)

Business Type Code 99-G

Special District

Business Name Change ☐

Business Address Change ☐

Business Officer / Ownership Change ☐

COMPLETED IN ITS ENTIRETY

5/28/15

Solutions

Real

94545

Jo. ( )

Yes No X

? Yes No X

Please indicate below:

Revenue and Taxation Code.)

tion:

T-KAUR

DY

94566

147

04557 05/28/2015 05:05PM

BUSINESS LICENSE  
WASTE SOLUTIONS

Item: 18754 104.00

104.00

104.00

104.00

104.00

0.00

WASTE SOLUTIONS

Office Hours:

Monday - Thursday 8:00 - 5:00

Friday 8:00 - 12:00 Noon

Thank you for your payment!

CUSTOMER COPY

5. Describe in detail the nature of the business to be conducted (i.e. manufacture and wholesale of appliances.): PROCESSING WATER PLOT.

Is the business: ☐ Retail ☐ Wholesale ☐ Commercial/Residential Rental  
☐ New Items ☐ Used Items ☐ Manufacturer  
☐ Office ☒ Service ☐ Storage/Warehouse (No sales)  
☐ Firearms ☐ Other (Specify)

6. If business is property rental:

• Number of units at location 0  
• Is there more than one address at this location? Yes No X  
• Do you own additional rental property in Hayward? Yes No X

7. Contractor License No. and Classification. (if licensed under provisions of the State Business Professions Code, Section 7033)

## AFFIDAVIT

I certify under penalty of perjury that information provided on this form is true and correct. I understand that payment of this tax, its acceptance by the City and the issuance of this Business Tax receipt does not entitle me or the business on behalf of which I have signed this affidavit to carry on any business unless that business complies with all applicable laws.

Executed on

5-28-15

at

Hayward CA

Signature

Print Name

Print Title

IMPORTANT INFORMATION ON THE REVERSE SIDE OF THE CUSTOMER COPY.  
PLEASE READ PRIOR TO SIGNING AFFIDAVIT.

CUSTOMER COPY-DO NOT DETACH

Zoning Dist.: 1

Initial: ASH

Date: 05/28/2015

Notes: PAI

Water not released to sewer storm drain

DIRT CONTAINERS

CREDIT CARD

REVENUE OFFICE





# HAYWARD

3rd Street  
Hayward, CA 94541-5077  
(510) 583-4600 · TDD (510) 247-3340  
REVENUE DIVISION  
BUSINESS TAX FORM 1  
www.hayward-ca.gov

Bill # 18754  
Attachment VIII  
This is your receipt when validated.  
Valid from 5/28/15 through 12/31/15  
Post until "Valid through" date.

PLEASE TYPE OR PRINT WITH PEN - FORM MUST BE COMPLETED IN ITS ENTIRETY

1. Today's Date: 5 / 28 / 15  
Date Business Commenced in Hayward 5 / 28 / 15
2. Business Name & Location:  
Business Name Slurry Waste Solutions  
No. & Street 24701 Clamley Road  
City, State, Zip Hayward CA 94545  
Telephone No. (510) 294-0220 Fax No. ( )  
E-mail Address: Kimberly@baconcrete.net  
Is business a P.O. box/mail drop? Yes   No X  
Is this business conducted in/from a residence? Yes   No X  
If mailing address is different than above, please indicate below:  
Attn:    
Address:    
City, State, Zip

3.

(This information is required by Section 19286.8 of the Revenue and Taxation Code.)

4. Business Owner/Corporation President Information:  
☒ Owner/CEO or ☐ Partner Name: JEET KAUR

Home Address 109 Castlewood Dr  
City, State, Zip Pleasanton CA 94566  
Home Telephone No.: (925) 724-9047

5. Describe in detail the nature of the business to be conducted (i.e. manufacture and wholesale of appliances.): Processing water / dirt.

Is the business: ☐ Retail ☐ Wholesale ☐ Commercial/Residential Rental  
☐ New Items ☐ Used Items ☐ Manufacturer  
☐ Office ☒ Service ☐ Storage/Warehouse (No sales)  
☐ Firearms ☐ Other (Specify)

6. If business is property rental:
  - Number of units at location 0
  - Is there more than one address at this location? Yes   No X
  - Do you own additional rental property in Hayward? Yes   No X
7. Contractor License No. and Classification. (if licensed under provisions of the State Business Professions Code, Section 7033)

## For Office Use Only

Tax # 1593  
SIC Code    
Renewal Period (A, Q, or O)    
Business Type Code ACT-G  
Special District

Business Name Change ☐  
Business Address Change ☐  
Business Officer / Ownership Change ☐

Zoning Dist.:    
Initial: ash  
Date: 05/29/2015  
Notes: Water not released to sewer storm drain  
Dirt water containers

**PAY**  
MAY 29 2015  
CREDIT CARD  
REVENUE OFFICE

## AFFIDAVIT

I certify under penalty of perjury that information provided on this form is true and correct. I understand that payment of this tax, its acceptance by the City and the issuance of this Business Tax receipt does not entitle me or the business on behalf of which I have signed this affidavit to carry on any business unless that business complies with all applicable laws.

Executed on 5/28/15 at Hayward CA  
(Date) (City and State)  
Signature Jeet Kaur Print Name Jeet Kaur Print Title President

IMPORTANT INFORMATION ON THE REVERSE SIDE OF THE CUSTOMER COPY.  
PLEASE READ PRIOR TO SIGNING AFFIDAVIT.  
CUSTOMER COPY-DO NOT DETACH



**MUNICIPAL LICENSE**  
**CITY OF HAYWARD, CALIFORNIA**

SLURRY WASTE SOLUTIONS  
24701 CLAWITER RD  
HAYWARD, CA 94545

IN CONFORMITY WITH THE HAYWARD MUNICIPAL CODE A

**BUSINESS LICENSE TAX RECEIPT**

IS HEREBY GRANTED TO:

**SLURRY WASTE SOLUTIONS**  
**24701 CLAWITER RD**  
**HAYWARD, CA 94545**  
**Expires: 12/31/2018**

This Tax Receipt is valid only at the above address for the listed period of time. Payment of this tax, its acceptance by the City, and the issuance of this Business Tax Receipt do not entitle the receipt holder to carry on any business unless that business complies with all applicable laws.

POST IN A CONSPICUOUS PLACE

Business ID: 1593  
Customer ID: 62099  
Category: SALES AND SERVICES

Under federal and state law, compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about your legal obligations and how to comply with disability access laws at the following agencies:

The Division of the State Architect at [www.dgs.ca.gov/dsa/Home.aspx](http://www.dgs.ca.gov/dsa/Home.aspx)  
The Department of Rehabilitation at [www.rehab.cahwnet.gov](http://www.rehab.cahwnet.gov)  
The California Commission on Disability Access at [www.cdda.ca.gov](http://www.cdda.ca.gov)

**MUNICIPAL LICENSE**  
**CITY OF HAYWARD, CALIFORNIA**

**SLURRY WASTE SOLUTIONS**

**24701 CLAWITER RD**  
**HAYWARD CA 94545**

**IN CONFORMITY WITH THE HAYWARD MUNICIPAL CODE A**

**BUSINESS LICENSE TAX RECEIPT**

**IS HEREBY GRANTED TO:**

**SLURRY WASTE SOLUTIONS**  
**24701 CLAWITER RD**  
**HAYWARD CA 94545**  
**Expires: 12/31/2017**

This Tax Receipt is valid only at the above address for the listed period of time. Payment of this tax, its acceptance by the City, and the issuance of this Business Tax Receipt do not entitle the receipt holder to carry on any business unless that business complies with all applicable laws.

**POST IN A CONSPICUOUS PLACE**

**Business ID: 1593**  
**Customer ID: 62099**  
**Category: SALES AND SERVICES**

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The Department of Rehabilitation at [www.rehab.cahwnet.gov](http://www.rehab.cahwnet.gov)  
The California Commission on Disability Access at [www.ccda.ca.gov](http://www.ccda.ca.gov)

**MUNICIPAL LICENSE**  
**CITY OF HAYWARD, CALIFORNIA**

SLURRY WASTE SOLUTIONS  
24701 CLAWITER RD  
HAYWARD CA 94545

RECEIVED DEC 12 2016

IN CONFORMITY WITH THE HAYWARD MUNICIPAL CODE A

**BUSINESS LICENSE TAX RECEIPT**

IS HEREBY GRANTED TO:

**SLURRY WASTE SOLUTIONS**  
**24701 CLAWITER RD**  
**HAYWARD CA 94545**  
**Expires: 12/31/2016**

This Tax Receipt is valid only at the above address for the listed period of time. Payment of this tax, its acceptance by the City, and the issuance of this Business Tax Receipt do not entitle the receipt holder to carry on any business unless that business complies with all applicable laws.

POST IN A CONSPICUOUS PLACE

Business ID: 1593  
Customer ID: 62099  
Category: SALES AND SERVICES

Under federal and state law, compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about your legal obligations and how to comply with disability access laws at the following agencies:

The Division of the State Architect at [www.dgs.ca.gov/dsa/Home.aspx](http://www.dgs.ca.gov/dsa/Home.aspx)  
The Department of Rehabilitation at [www.rehab.cahwnet.gov](http://www.rehab.cahwnet.gov)  
The California Commission on Disability Access at [www.cdda.ca.gov](http://www.cdda.ca.gov)

**MUNICIPAL LICENSE**  
**CITY OF HAYWARD, CALIFORNIA**

SLURRY WASTE SOLUTIONS  
24701 CLAWITER RD  
HAYWARD CA 94545

IN CONFORMITY WITH THE HAYWARD MUNICIPAL CODE A

**BUSINESS LICENSE TAX RECEIPT**

IS HEREBY GRANTED TO:

**SLURRY WASTE SOLUTIONS**  
**24701 CLAWITER RD**  
**HAYWARD CA 94545**  
**Expires: 12/31/2015**

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POST IN A CONSPICUOUS PLACE

Business ID: 1593  
Customer ID: 62099  
Category: SALES AND SERVICES

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The Department of Rehabilitation at [www.rehab.ca.gov](http://www.rehab.ca.gov)  
The California Commission on Disability Access at [www.ccda.ca.gov](http://www.ccda.ca.gov)



**APPENDIX B**  
**ECONOMY TRUCKING SERVICES BUSINESS LICENSE**

**MUNICIPAL LICENSE**  
**CITY OF HAYWARD, CALIFORNIA**

ECONOMY TRUCKING SERVICES INC

24701 CLAWITER RD  
HAYWARD, CA 94544

IN CONFORMITY WITH THE HAYWARD MUNICIPAL CODE A

**BUSINESS LICENSE TAX RECEIPT**

IS HEREBY GRANTED TO:

**ECONOMY TRUCKING SERVICES INC**  
**24701 CLAWITER RD**  
**HAYWARD, CA 94544**  
**Expires: 12/31/2018**

This Tax Receipt is valid only at the above address for the listed period of time. Payment of this tax, its acceptance by the City, and the issuance of this Business Tax Receipt do not entitle the receipt holder to carry on any business unless that business complies with all applicable laws.

POST IN A CONSPICUOUS PLACE

Business ID: 136642  
Customer ID: 210925  
Category: OTHER BUSINESS

Under federal and state law, compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about your legal obligations and how to comply with disability access laws at the following agencies:

The Division of the State Architect at [www.dgs.ca.gov/dsa/Home.aspx](http://www.dgs.ca.gov/dsa/Home.aspx)  
The Department of Rehabilitation at [www.rehab.cahwnet.gov](http://www.rehab.cahwnet.gov)  
The California Commission on Disability Access at [www.cdda.ca.gov](http://www.cdda.ca.gov)



**CITY OF HAYWARD**  
BUSINESS TAX RECEIPT  
777 B STREET • HAYWARD, CA 94541-5007

Payment of this tax, its acceptance by the city, and the issuance of this Business Tax Receipt does not entitle the receipt holder to carry on any business unless that business complies with all applicable laws.

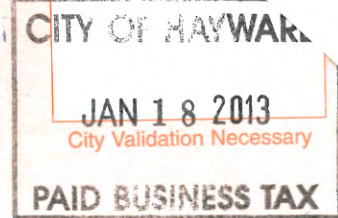
**Tax ID #** 99-2 136542

**Type of Business** AUTO REPAIRS

**Business Name/Mailing Address**  
ECONOMY TRUCK REPAIR  
PO BOX 1603  
UNION CITY CA 94587

136542

**Valid through** 12/31/13  
**Only At This Business Address**  
24701 CLAWITER RD  
HAYWARD CA 94545



**Receipt Must Be Prominently Posted**



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

---

File #: MIN 18-145

---

**DATE:** November 8, 2018

**TO:** Planning Commission

**FROM:** Director of Development Services

**SUBJECT**

Minutes of the Special Planning Commission Work Session Meeting of October 11, 2018

**RECOMMENDATION**

That the Planning Commission approved the minutes of the Special Planning Commission Work Session meeting of October 11, 2018

**SUMMARY**

The Planning Commission held a special work session meeting on October 11, 2018

**ATTACHMENTS**

Attachment I      Draft Special Minutes of October 11, 2018





**MINUTES OF THE SPECIAL WORK SESSION OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, October 11, 2018, 5:00 p.m.  
777 B Street, Hayward, CA 94541**

---

**MEETING**

The Special Work Session meeting of the Hayward Planning Commission was called to order at 5:12 p.m. by Chair Goldstein.

**CALL TO ORDER Pledge of Allegiance**

Commissioner Bonilla Jr. led in the Pledge of Allegiance.

**ROLL CALL**

Present: COMMISSIONERS: Willis Jr., Andrews, Bonilla Jr., Patton, McDermott, Faria  
CHAIRPERSON: Goldstein  
Absent: COMMISSIONER: None

Staff Members Present: Brick, Buizer, Chan, Pearson, Schmidt

General Public Present: 6

**PUBLIC COMMENT:**

There were none.

**WORK SESSION:**

1. Industrial District Regulations Update Planning Commission Study Session

Senior Planner Schmidt spoke about the Industrial District Regulations Update and introduced Project Manager Consultant Miller.

Project Manager Consultant Martha Miller, with Lisa Wise Consulting, provided an overview and summary of the draft Industrial District Regulations and provided a PowerPoint presentation.

Commissioner Patton had concerns on how many long term non-conforming businesses would be allowed if they have plans to expand their businesses. Senior Planner Schmidt responded that staff has discussed this at length as there are many businesses currently operating illegally, as some don't have business licenses or some conduct business beyond the scope of their Use Permit. Staff determined that current non-conforming regulations allow businesses to operate indefinitely under the parameters of their Use Permit, but if the business wants to expand or add on and the new use is not under the Industrial District



**MINUTES OF THE SPECIAL WORK SESSION OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, October 11, 2018, 5:00 p.m.  
777 B Street, Hayward, CA 94541**

---

Regulations, then the business would need to bring the new use under conformance with the current regulations or the business would have to move. Ms. Schmidt said staff determined not to adopt separate regulations for the Industrial District with the goal of being consistent with non-conforming regulations used throughout the state.

Commissioner McDermott's asked if there are any plans to attract high tech businesses to the City and plans for street improvements in the light industrial area as currently some areas do not have sidewalks. Senior Planner Schmidt responded that there will be subdistricts in the industrial area, it is a large economic asset for the City and the jobs there are important. Ms. Schmidt said currently this area is treated the same, and said staff wants to incentivize development the City would like to see in that area. Ms. Schmidt said the City received a grant to install a fiber optic network in the industrial area, infrastructure the high-tech companies are seeking. Ms. Miller said new development will be required to install new sidewalks and pedestrian access connections. Ms. McDermott said it is difficult and frustrating as there are not many good places to eat in the industrial area and suggested that the City needs to prepare better planning for amenities for the workers in that area. Ms. Miller acknowledged the missing supportive elements of restaurants and other amenities.

Commissioner Faria questioned what transit option types are being considered for the Light Industrial Area and if bicycle access can be incorporated into the regulations. Senior Planner Schmidt responded that transit options are a citywide project, the City conducted a shuttle study for the industrial area and the Public Works, Engineering and Transportation Department has a map of the proposed shuttle path, but that there would need to be buy-in by employers to develop a public/private partnership. Ms. Schmidt said staff did not know if the City was still pursuing this transit option and noted that transit options were outside of the realm of this project, but staff can investigate this and will bring back the results of the City's industrial area shuttle study when the item comes back to the Planning Commission for final review. Ms. Schmidt said large developments could incorporate a shuttle program and receive trip reduction rates to reduce the business' impacts under the California Environmental Quality Act (CEQA) or reduce greenhouse gas emissions that are generated at the development site. Ms. Schmidt said car sharing programs are included in the updated regulations, a developer can incorporate transportation demand management measures including shuttle that is allowed under the regulations, resulting in benefits such as reductions in parking and trip generation. Ms. Miller said the regulations have more to do with pedestrian access and circulation and noted there are bicycle regulations in the City's Municipal Code. Ms. Schmidt said there is room in the design guidelines to mention adopted citywide plans for bicycle, pedestrian, park and trails, and to incorporate, as much as possible, connecting those trails to the industrial area. Ms. Schmidt noted the City is in the middle of the Bicycle Master Plan Update. In response to Ms. Faria's question if the City was encouraging AC Transit to expand their flex program into Hayward, Ms. Schmidt said



**MINUTES OF THE SPECIAL WORK SESSION OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, October 11, 2018, 5:00 p.m.  
777 B Street, Hayward, CA 94541**

---

staff would take this question to the Public Works, Engineering and Transportation department and will report back to the Commission.

Commissioner Bonilla asked about increasing public transportation access. Senior Planner Schmidt responded that once the updated regulations are adopted, new developments will be required to include sidewalks to promote the pedestrian connections and will expand as more new developments are built. Ms. Miller commented that this is an overall City effort to enhance the industrial corridor and meet the General Plan goals, and that this is a comprehensive update that involves economic development strategy, transportation, and infrastructure. Ms. Miller spoke about the public outreach to involve the community in developing the regulations. In response to Mr. Bonilla's question about how the City's regulations compare across the region, Ms. Miller noted that nearby cities do not allow industrial uses, but Hayward is unique and wants to retain her industrial area. Ms. Miller said it is important for Hayward to decide what will work best for the City.

Commissioner Willis asked if there are conditions that limit the amount of noise and pollution that can be generated as he has concerns about the impact to the housing developments near Costco at Marina and Industrial Boulevard. Ms. Miller responded that there is a section within the Industrial District Regulations on Performance Standards that addresses impacts such as hazardous materials, dust, fumes' odors, glare, noise, and waste, and there are standards on landscaping, buffers, screening, compatibility and protection issues. Ms. Miller said that industrial uses and hazardous materials are also subject to health and safety regulations and noted staff worked with the City's HazMat Division to ensure that both regulations worked together to address these impacts. Mr. Willis recommended that the City post warning signs when there is no pedestrian access due to the lack of sidewalks to prevent potential legal issues.

Commissioner Andrews commented that she liked the addition of public art and food vendors that will enhance the industrial area and the surrounding communities and inquired about breweries. Senior Planner Schmidt said breweries and micro-breweries are an allowed use and it depends on the zoning district what kind of use permit the business would have. Ms. Schmidt said breweries that offer tours and have ancillary tasting will not require an Administrative Use Permit (AUP). Ms. Andrews asked if zero landscaping can be incorporated into the Landscaping requirements, and Ms. Miller responded the City has water efficiency landscaping standards which is included in the updated regulations. In response to Ms. Andrews' question about the regulations to allow more food vendors into the industrial area, Ms. Schmidt said those regulations have not changed, and if the Commission would like the limitation removed, then staff can take this recommendation to Council. Ms. Andrews recommended review of the limitation in the food vendor regulations to allow more food vendors which can help serve workers in the industrial districts and surrounding areas.



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In response to Commissioner Faria's questions about allowing churches that want to open in the industrial area, Senior Planner Schmidt said under the section for Group Assembly Use, cultural and religious facilities are allowed with an AUP in the Limited Industrial Area only. Ms. Schmidt said these uses are not allowed in the Industrial Park or the General Industrial areas because of the use of hazardous materials present in those areas.

Commissioner Patton suggested the regulations should include a vision for the public entity and should include long-term strategies for both public and private entities, as both parties should be involved to pay their fair share. Mr. Patton said language should be included that requires property owners that receive short-term entitlements to agree to participate in future programs such as Capital Improvement Projects and/or Assessment Districts. In response to Mr. Patton's question about live/work space, Senior Planner Schmidt said the City's General Plan, adopted in 2014, does not allow residential uses in the industrial area. Ms. Schmidt said staff's goal was to have the zoning document conform with the General Plan. Mr. Patton suggested having several gradations in the food industry catering category to allow for rent space or rent time in building; review regulations for industrial-related schools and include language to break-up large buildings.

Commissioner Andrews had question regarding allowed school uses in the Light Industrial area that includes multi-age dance schools, karate schools, and health clubs. Senior Planner Schmidt responded that allowed uses are recreational facilities, commercial amusement facilities such as Pump It Up, indoor basketball/soccer, and health clubs. Ms. Schmidt said schools could be considered in the Light Industrial area depending on the adjacent areas, and that staff would review the school's business plans and work with the school about the best avenue to take.

Chair Goldstein would like to see a special events provision that would allow multiple food trucks and commented that food trucks should not be prevented from helping the community during a crisis. Mr. Goldstein concurred with Commissioner Patton and would like to see street improvement regulations that address breaking-up large buildings. Mr. Goldstein would also like the addition of bicycle markings addressed. Mr. Goldstein likes the idea of subdistricts and expressed concern about how the City plans to accommodate changing market conditions; Ms. Miller explained that there is an overlap of uses among the subdistricts and that they are not mutually exclusive; she added that there are refinements in each of the subdistricts as well as a number of uses allowed in all three subdistricts. Ms. Miller noted that cultural facilities are only allowed in the Light Industrial Area as those facilities would bring the general public to the area. Ms. Miller responded to Mr. Goldstein's question about the public process sharing that staff was in the middle of the public outreach process that has included stakeholder interviews, meeting with different groups, holding a public workshop, and conducting an online survey for employers and





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employees in the areas. Ms. Miller said the project information was sent out to several outreach lists that the City maintains. She said staff is conducting this Planning Commission Study Session and will hold the City Council Study Session. Staff will then revise and refine the regulations and then the item will return to Council for final adoption. Ms. Miller shared that staff had candid conversations about what would and would not work in Hayward. Senior Planner Schmidt shared that 15,000 notices were sent out and invited the Commissioners to visit the project website where all the public outreach meetings, correspondence, and feedback is posted.

There being no public comments, Chair Goldstein opened and closed the public comment at 6:28 p.m.

**ADJOURNMENT**

Chair Goldstein adjourned the meeting at 6:30 p.m.

**APPROVED:**

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Ray Bonilla Jr., Secretary  
Planning Commission

**ATTEST:**

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Denise Chan, Senior Secretary  
Office of the City Clerk



# CITY OF HAYWARD

Hayward City Hall  
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File #: MIN 18-146

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**DATE:** November 8, 2018

**TO:** Planning Commission

**FROM:** Director of Development Services

**SUBJECT**

Minutes of the Planning Commission Meeting of October 11, 2018

**RECOMMENDATION**

That the Planning Commission approve the minutes of the Planning Commission meeting of October 11, 2018

**SUMMARY**

The Planning Commission held a meeting on October 11, 2018

**ATTACHMENTS**

Attachment I      Draft Minutes of October 11, 2018



**MINUTES OF THE REGULAR MEETING OF THE  
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**MEETING**

A regular meeting of the Hayward Planning Commission was called to order at 7:21 p.m. by Chair Goldstein.

**CALL TO ORDER Pledge of Allegiance**

Commissioner Patton led in the Pledge of Allegiance.

**ROLL CALL**

Present: COMMISSIONERS: Willis, Andrews, Bonilla, Patton, McDermott, Faria  
CHAIRPERSON: Goldstein  
Absent: COMMISSIONER: None

Staff Members Present: Brick, Chan, Lee, Lochirco, Vigilia, Wright

General Public Present: 9

**ELECTION OF OFFICERS:**

The Planning Commission held their annual election of officers.

Commissioner McDermott made a motion to elect Commissioner Faria as Chair, Commissioner Willis Jr. as Vice Chair, and Commissioner Bonilla Jr. as Secretary.

Commissioner Patton seconded the motion.

The motion passed with the following vote:

AYES:	Commissioners Willis, Andrews, Bonilla, Patton, McDermott, Faria Chair Goldstein
NOES:	None
ABSENT:	None
ABSTAIN:	None

**PUBLIC COMMENT:**

There were none.



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**PUBLIC HEARINGS:** For agenda item No. 1, the item has been continued to a date certain of November 8, 2018.

For agenda items No. 2 and No. 3, the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of the decision. If appealed, a public hearing will be scheduled before the City Council for final decision.

1. Appeal of Denial of a Proposed Temporary Concrete Recycling Facility at 24701 Clawiter Road (APN: 439-0020-002-03) Kimberly Douglas for Bay Area Concrete Recycling, LLC (Applicant)/S & A Investment Holdings (Owner) requiring an Administrative Use Permit Application 201801996 **(Continued to November 8, 2018)**
2. Proposal to Establish a Commercial Amusement Facility with Ancillary Beer and Wine Sales Located at 545 Southland Mall (APNs 442-0010-004-19 & 442-0010-004-20) by Round One Entertainment (Applicant) on Behalf of Southland Mall LP, (Owner) Requiring Approval of Conditional Use Permit Application No. 201803296

Associate Planner Lee provided a synopsis of the staff report and a PowerPoint presentation. Mr. Lee noted there were minor revisions to the Traffic Study that were clerical in nature and does not impact the analysis or its conclusions. Mr. Lee said there is an amendment to Condition of Approval (COA) 17, Section b. to now read: "Premises or its adjoining grounds will include within the tenant space and exterior areas within 50 feet of the building".

In response to Commissioner Willis' question if the proposed project is like the one in Jack London Square, Mr. Steven Takeuchi, applicant, described the facility as outlined in the staff report. The bowling will be for fun, the facility does not promote leagues, and patrons can bring their own bowling balls and shoes.

In response to Commissioner Andrews' question about having happy hours, Detective Wright, Hayward Police Department, said the City allows happy hours only at full service restaurants. In response to Ms. Andrews question about the type of games, Mr. Takeuchi said the facility will have modern games that are pulled from domestic distributors and partners in Japan. Ms. Andrews expressed concern about competition for the High Scores business located in downtown Hayward.

Commissioner Goldstein requested a description of the dining option, Mr. Takeuchi responded that they are not a full-service restaurant as the food is a convenience for the patrons and will consist of typical bowling alley food such as pizza, nachos, hamburgers,





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fries and ice cream. Mr. Goldstein said he is glad the facility will offer food on site as it can be a deterrent to alcohol consumption behavior.

Mr. Takeuchi described for Commissioner McDermott that dining tables and chairs will be spread throughout the facility, there will be a staff of approximately 40 to 50 people and they will be hiring age 18 years and above. Ms. McDermott encouraged the applicant to consider hiring locally. In response to Ms. McDermott's question about shooting/war games, Mr. Takeuchi said there will be a handful of shooting games, but the majority will be redemption games where the patrons will exchange tickets for prizes. Ms. McDermott expressed concern with shooting/war games in this family-oriented space, and as a parent and grandparent, it is a struggle with children playing those type of games, and she requested the applicant take this into consideration. Mr. Takeuchi said his game team does take this into consideration and will conform their games to the City's regulations. Mr. Takeuchi said for normal day-to-day operations security tapes are deleted after 30 days, but if there is an incident then security video will be kept longer. Associate Planner Lee responded to Ms. McDermott that the facility can hold up to 800 people, and Dick's Sporting Goods will not be impacted during the holiday season as Mr. Takeuchi has been in discussions with Dick's to schedule the project's construction to begin in mid-January with construction typically taking about five months.

Chair Faria had questions about shuttles for Cal State East Bay students, if there have been any security issues at the other locations, and if patrons can go in and out of the facility. Mr. Takeuchi said his marketing and operations team is in discussion with Southland Mall about the shuttles and will follow up on this item; patrons can come and go and upon return to the facility, patrons are subject to security measures in place to check their wristbands. Mr. Takeuchi said there have been occasional fights, but no major incidents have occurred at the other locations. Ms. Faria expressed concerns about patrons going in and out, loitering issues and the impact to Dick's Sporting Goods and Southland Mall patrons. Associate Planner Lee confirmed for Ms. Faria that the public notice area starts at Southland Mall's property line and goes 300 feet into surrounding neighborhoods. In response to Ms. Faria's concerns about traffic impacts at LaPlaya and Hesperian and if there will be any improvements, Mr. Lee said the traffic study did not indicate any impact to that intersection from the proposed project.

In response to Commissioner Willis' question about facility access on the second floor, Mr. Takeuchi said there will be two access points, one from an outside, dedicated door that goes directly to the second floor, and the other dedicated access point through the mall. Southland Mall has remodeled inside the mall to accommodate this indoor access point. Mr. Takeuchi said when the mall is closed, patrons would access the facility through the dedicated outside door and their hours of operations will be 10 a.m. to 1:30 p.m.



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Mr. Takeuchi confirmed for Commissioner Faria that there will be elevator access.

Chair Faria opened the public hearing at 8:05 p.m.

Mr. Edward Bogue, President of the Southgate Homeowners Association, spoke in favor of the project; noted he and his neighbors received the 300-foot notice about the proposed project, he said the conditions are appropriate and cover anything that may occur, it is a professional operation and the project has comprehensive security measures in place and spoke about the positive aspects when he visited the San Jose location. Mr. Bogue said the Homeowners Association agrees with the change to Condition #17 and the traffic study. He said the traffic issue at LaPlaya and Hesperian have to do with drivers and not the proposed project. Mr. Bogue noted the food and alcohol sales are side-by-side at two separate counters and operated by two separate crews. Mr. Bogue responded to Commissioner McDermott that he visited the San Jose location this past Sunday from 12:30 p.m. to 3 p.m.

Chair Faria closed the public hearing at 8:10 p.m.

Commissioner Bonilla said he is excited about the proposed project and how it will help to revitalize the City. He said that it is great to have these types of establishments come to the City and hopes that more will open in Hayward.

Commissioner McDermott said this is exciting for Southland Mall as it will help revitalize the mall, she likes that this is family-oriented entertainment, children will have a great time and then there is time for young adults as well. Ms. McDermott said this is a great location and she will be supporting the motion.

Commissioner Andrews is excited about the proposed project and encouraged the applicant to hire locally.

Chair Goldstein concurred with his fellow Commissioners and would have liked hiring locally to be a condition but at this stage he instead asked the applicant to have a preference to hire locally as this will benefit the local economy and decrease the traffic impacts.

Commissioner Willis commented that this will be a regional facility and will draw people from around the Bay Area. He said the proposed project will bring a new form of entertainment to the region.

Commissioner Willis made a motion to approve the staff recommendation which includes the amendment to Condition of Approval (COA) 17, Section b. to now read: "Premises or its adjoining grounds will include within the tenant space and exterior areas within 50 feet of the building".



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Commissioner Patton seconded the motion.

The motion passed with the following vote:

AYES:	Commissioners Willis, Andrews, Bonilla, Patton, McDermott, Goldstein Chair Faria
NOES:	None
ABSENT:	None
ABSTAIN:	None

3. Proposed Cannabis Manufacturing (Level 1) Use Located at 2363 Tripaldi Way, Assessor Parcel No. 463-0093-001-03 by Stoned Age Edibles (Applicant); Ching Lee (Property Owners), Requiring Approval of Conditional Use Permit Application No. 201803933

Principal Planner Lochirco provided a synopsis of the staff report and a PowerPoint presentation.

In response to Commissioner Goldstein's request for more details on the Community Benefits Program and their hiring plan, Mr. Milgram, applicant, indicated partnering with Mr. Morales of the South Hayward Parish, who was seated in the audience, on projects such as organize events for the Clean Streets initiative for graffiti clean-up, create a mural, and partner with the Chamber of Commerce and the Hayward Rotary Club on future community events. Mr. Milgram said he and his team are focused on Hayward local hiring, continued business education for their staff, using the living wage calculator, and striving to have a good working relationship with the City.

In response to Commissioner McDermott's questions about the facility and their hiring plan, Mr. Milgram said the facility they are renting is owned by Red Dot Kitchens, they will be hiring five employees, and will hire more as needs increase. Ms. McDermott thanked the applicant for hiring locally and asked about the GPS tracking system. Mr. Milgram explained how the GPS tracking system will work for their product, the security in place and the delivery of the product. He said the GPS tracker is connected to the track and tray system which is mandated by the State of California, and that this information is sent to the State and hosted onsite for local law enforcement. Mr. Milgram said the routes will be randomized for drivers not to duplicate the same route. Mr. Milgram said he will be working fulltime, introduced his two co-owners, Ms. Samantha Flores, who is the kitchen manager and bookkeeping/operations and Mr. Brian Guilardi, who is the technical consultant, and will assist with any engineering requirements. Ms. McDermott requested, as part of the Community Benefits Program, that the applicants consider partnering with the Hayward Unified School District (HUSD) on promoting a program to educate middle and high school students on the dangers of e-cigarettes and vaping, an increasing trend



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among these age groups; Mr. Milgram said they have developed a pamphlet that speaks about cannabis awareness and diversion to prevent teens from smoking and said they will contact HUSD to partner with them. Mr. Milgram responded to Ms. McDermott that for 24-hour contact information, all three co-owners, as well as the security company, will provide their contact numbers.

In response to Commissioner Willis' questions about cannabis product's addictiveness, their customer base, and food product regulation, Mr. Milgram said that cannabis has been found to be non-addictive, their customers are strictly wholesalers, and their food product is subject to the Manufactured Cannabis Safety Branch (MCSB) regulated by the State of California Department of Food. Mr. Milgram assured Mr. Willis that their facility is more than 600 feet from any sensitive operations.

In response to Commissioner Andrews' question about the cannabis concentrate, Mr. Milgram said the concentrate can only be used for food manufacturing and the product cannot be sold on the black market. Mr. Milgram said they are following all requirements recommended by the City ensure their facility is secure.

In response to Commissioner McDermott's question regarding protocols for approval, Principal Planner Lochirco explained that the applicant can apply to the State at any time for a license to operate, but the State will ask the City if the applicant has received land use approval which would be the use permit. Once the use permit has been issued, then the State will offer the applicant a license to operate. Mr. Lochirco said the City has several Conditions of Approval (COA) that are included prior to the issuance of the City's Cannabis Permit. Mr. Lochirco said when Council took action earlier in the year, it was a preselection process contingent upon the applicant finding a location, acquiring land use approvals, and ensuring the build-out of the site/space be consistent with the applicant's business plan in order to obtain their Cannabis Permit. In response to Ms. McDermott's inquiry regarding what revenue the City would receive, Mr. Lochirco said the proposed project would be taxed similar to any manufacturing use when products are sold and taxed for distribution.

Mr. Milgram thanked the City staff for their time in assisting them with their proposed project. He and his fellow owners look forward to making a positive impact on the City.

Chair Faria opened the public hearing at 8:56 p.m.

Dennis Mack, Hayward business owner, opposed the proposed project. Mr. Mack owns the building east of the proposed project site and has concerns about security and safety for his employees, what kind of activity this industry will bring to the area, and how the cannabis businesses cannot deposit their money into banks nor obtain business insurance. Principal Planner Lochirco said the State is in discussions regarding implementing an



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individual banking system independent of the FDIC regulations that prohibit deposits of funds derived from cannabis industries. Mr. Lochirco said Hayward along with cities throughout California and other States that have legalized cannabis have these same questions and issues.

Mr. Milgram said to address safety and security, they are implementing security measures of cameras and lights, and there will be a security guard onsite during operations. He said the landlord has insurance on the buildings and the applicants are obtaining separate cannabis insurance policies and shared that there are about 50-60 longstanding cannabis industry insurance companies specific to California and a few dozen nationwide. Mr. Milgram said the kitchen will have a fire suppression system, they do not work with any volatile materials, and they have received the Fire Department's approval.

In response to Commissioner Willis, Mr. Milgram provided his work background which includes experience in making businesses run well and pointed out that Ms. Flores and Mr. Guilardi also have a lot of business experience.

In response to Commissioner Goldstein's question of product and general liability insurance, Mr. Milgram said that the cannabis insurance also covers those areas.

Mr. Ralph Morales, Interim Executive Director for South Hayward Parish, spoke in favor of the proposed project; said the applicant has been very helpful and is one of the "good guys"; the South Hayward Parish Board approve working with Mr. Milgram and said this has been a good fit for the Parish.

Chair Faria closed the public hearing at 9:08 p.m.

Commissioner Andrews suggested the applicants reach out to the Keep Hayward Clean and Green Task Force which can connect the applicants with local artists. Ms. Andrews did have concerns about security and suggested that the applicant's insurance company conduct a risk assessment to review their security plan and share the results with Mr. Mack.

Commissioner McDermott commented that the cannabis industry is new for both medical and recreational use and understands that there are reservations. Ms. McDermott said she knows Mr. Morales and the South Hayward Parish and trusts his opinion about the applicant. Ms. McDermott appreciated the applicant's enthusiasm about helping the Hayward community.

Commissioner Willis said he also has concerns, but it is important for the City to control and regulate the cannabis industry and not drive it underground. Mr. Willis hopes this business is successful.

Commissioner Willis made a motion to approve the staff recommendation.





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Commissioner Bonilla seconded the motion

The motion passed with the following vote:

AYES:	Commissioners Willis, Andrews, Bonilla, Patton, McDermott, Goldstein Chair Faria
NOES:	None
ABSENT:	None
ABSTAIN:	None

**COMMISSION REPORTS**

**Oral Report on Planning and Zoning Matters:**

Principal Planner Lochirco announced to the Commissioners that they will be receiving invitations to a Commissioners reception hosted by the Mayor and City Council. The reception will be held in the City Hall Rotunda on December 14, 2018, from 6 to 8 pm.

**Commissioners' Announcements, Referrals:**

There were none.

**ADJOURNMENT**

Chair Faria adjourned the meeting at 9:18 p.m.

**APPROVED:**

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Ray Bonilla, Secretary  
Planning Commission

**ATTEST:**

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Denise Chan, Senior Secretary  
Office of the City Clerk



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File #: MIN 18-147

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**DATE:** November 8, 2018

**TO:** Planning Commission

**FROM:** Director of Development Services

**SUBJECT**

Minutes of the Planning Commission Meeting of October 25, 2018

**RECOMMENDATION**

That the Planning Commission approve the minutes of the Planning Commission meeting of October 25, 2018

**SUMMARY**

The Planning Commission held a meeting on October 25, 2018

**ATTACHMENTS**

Attachment I      Draft Minutes of October 25, 2018



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**MEETING**

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair Faria.

**CALL TO ORDER Pledge of Allegiance**

Commissioner Patton led in the Pledge of Allegiance.

**ROLL CALL**

Present: COMMISSIONERS: Willis, Andrews, Bonilla, Patton, McDermott, Goldstein  
CHAIRPERSON: Faria  
Absent: COMMISSIONER: None

Staff Members Present: Brick, Buizer, Chan, Contreras, Garcia, Hung, Lee, Martinez

General Public Present: 7

**PUBLIC COMMENT:**

There were none.

**PUBLIC HEARINGS:** For agenda item No. 1, the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of the decision. If appealed, a public hearing will be scheduled before the City Council for final decision. For agenda item No. 2, the Planning Commission may make a recommendation to the City Council.

1. Proposed Capital Improvement Project for the Development and Expansion of the Existing Fire Station #6, Regional Aircraft Rescue Firefighting Facility and Fire Training Center Located on Hayward Executive Airport Property at 1401 West Winton Avenue, Assessor Parcel No. 432-0124-001-04 for the City of Hayward (Applicant/Property Owner); Requiring Site Plan Review (Application No. 201703717) and the Adopting of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program

Assistant Planner Martinez provided a synopsis of the staff report and a PowerPoint Presentation. Mr. Martinez noted Fire Chief Contreras and Senior Civil Engineer Hung were present.



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Commissioner Goldstein inquired how construction will impact existing fire services. Fire Chief Contreras replied that the Hayward community will incur no loss of service and outlined where the different services will be housed during construction, with the Medical Division relocated to Station #1; Station #6 which includes the Airport firefighting staff and rig will be housed at the Air National Guard temporary buildings; and the Chief noted they will be conducting Neighborhood Emergency Response Team (NERT) training for the next eighteen months. Chief Contreras spoke about the new technology improvements to Station #6 which includes a new station alerting system which will improve response times. In response to Mr. Goldstein's question about the construction completion timeline, Chief Contreras said the current construction schedule is two years and the goal is to be completed by fall 2021. Chief Contreras spoke about the exceptional cooperation and collaboration with Chabot College to benefit their firefighter students and noted the Regional Occupation Program (ROP) Center uses the City's fire training facilities on Mondays.

Commissioner Willis asked how many students train at the Fire Training Center. Chief Contreras responded that Hayward's facility is a regional training facility that can have up to 100 students on site at any time with approximately ten instructors. The Chief said there is a possibility that Hayward will be sharing the fire training facilities with other jurisdictions and will be offering Airport rescue and firefighting training to assist our neighboring cities with their annual training which will foster good working relationships.

Commissioner Bonilla asked about the Chabot College students fire training facility, how busy Station #6 is, will other agencies be charged for using our training facility, and the cost of construction; Chief Contreras said Chabot College fire students currently train in San Leandro, but this facility will close in two years, and he hopes construction for Station #6 will be completed in time to accommodate the Chabot students. Chief Contreras said Station #6 is the fourth busiest station responding to approximately 2,600 calls per year. Regarding the project costs, Chief Contreras said there is a \$20 million contribution from Chabot College and \$38 million in the Capital Improvement Program (CIP) from Measure C funds. He noted that there were additional CIP funds leftover from the earthquake retrofits for Stations 1-5 as Fire staff agreed to only spend what was needed for the other fire stations, as they acknowledged the value of having these funds go towards the Fire Training Center which can help the entire community.

Chief Contreras said the importance of partnering with Chabot College is this can open regional opportunities such as hosting the Bay Area Firefighter's Conference which can be a major revenue generator for the City. The Chief spoke about the MOU between Chabot College and the City, where any rentals of the training facility will generate revenue. The Chief said staff is currently working with Los Positas/Chabot College on an education



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element. He said included in the construction and design is the high priority training on a BART vehicle, urban search and rescue collapse simulator.

Commissioner Andrews asked about the education results for the paramedic training. Chief Contreras said he anticipates that Hayward's program would be similar to the Chabot College Firefighter 1 Academy where approximately 70% of graduates who obtain their Firefighter 1 and EMT certificates will be working in the profession. He added that a job requirement for future Hayward recruits is to have this Firefighter/Paramedics certification. Ms. Andrews commended Chief Contreras for his aggressive project schedule. Chief Contreras shared that a lot of soft costs and a 5% annual escalator are built into the costs. Chief Contreras provided the architectural background for the project, with includes the building being LEED certified, the design is similar to an airplane hangar, solar panels and the design incorporates safety issues which represent of the fire issues found throughout the Hayward community.

Chief Contreras described for Commissioner Bonilla fire safety features incorporated into the building such as narrow staircases found in Victorian homes. The Chief said firefighters carried cameras on their uniforms to find out what kind of fire issues staff encountered, and this data was then provided to the design team.

Commissioner McDermott said there is a real need for the City to expand the paramedic training program for Hayward's local students. Chief Contreras agreed that the educational focus will be for local students.

In response the Commissioner Faria's inquiry about trees and the use of permeable pavers, Assistant Planner Martinez said 27 trees will be removed per the City's Tree Preservation Ordinance. All mitigation could not be performed by planting trees, as staff did not want trees to be where they could catch on fire such as near the fire props building. Thus, permeable pavers were incorporated into the design that provides similar tree benefits such as earth cooling. Planning Manager Buizer said this option will also be available to other developers.

Having no public speakers, Chair Faria opened and closed the public hearing at 7:34 p.m.

Chief Contreras said that staff will do their best to stay on their scheduled timeline in order to keep costs down.

Commissioner Bonilla made a motion, seconded by Commissioner Patton, to approve the staff recommendation. The motion passed with the following vote:





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AYES: Commissioners Willis Jr., Andrews, Bonilla Jr., Patton, McDermott,  
Goldstein  
Chair Faria  
NOES: None  
ABSENT: None  
ABSTAIN: None

2. Proposal to Construct 8 Attached Townhouse Condominium Units and Related Site Improvements at 420 Smalley Avenue (APN 431-0008-020-00) by GKW Architects (Applicant) on behalf of Tommy Tam (Owner) Requiring Approval of a Vesting Tentative Tract Map, Planned Development (PD) Rezone, and Site Plan Review, and the Adoption of a California Environmental Quality Act (CEQA) Infill Checklist. Application no. 201704262

Associate Planner Lee provided a synopsis of the staff report and a PowerPoint presentation. Mr. Lee said there is a revision to the language in Condition of Approval (COA) 23, Section C., to read as follows: "Three of eight units shall provide a bedroom suite on the first floor."

Commissioner McDermott requested the applicant to come forward with their presentation.

Mr. Long Nguyen, project manager and Mr. Kevin Yu, draftsman, representing GKW Architects the applicant, spoke about their vision for the sustainable, holistic, benchmark project that will contribute to the Hayward community. Mr. Nguyen said they incorporated a greenbelt throughout the general area of the development.

Commissioner McDermott inquired about the 2005 Planning Commission recommendation for a tentative tract map, but the development was never built. Mr. Tommy Tam, owner, said there was an economic downturn and the property was sold several times prior to his purchasing the property in 2013. Mr. Gordon Wong, architect with GKW, and Mr. Tam, spoke about how the prior design plans incorporated an existing structure, but that it was very difficult as the structure was not up to current building codes and when consulting City staff the prior design was found to be outdated. Mr. Wong said by working with City staff in Planning and Building they were able to come up with a more modern and sustainable design that is up to current building codes. Mr. Nguyen responded to Ms. McDermott that the affordable housing unit is the three-bedroom unit near the open area space.

Commissioner Patton would like City staff to ensure that the common driveway be illustrated correctly. Associate Planner Lee confirmed for Mr. Patton that the fire vehicle



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turn-around plans had been approved by the Fire Department. Mr. Wong responded to Mr. Patton that the development will be Homeowner's Association (HOA) controlled and all the condominiums will share a common simple roof design and they have found that the metal roof material works well and can handle the weight of the solar panels. Mr. Patton commended the applicant for bringing forward the sustainable project. Mr. Patton has concerns about infill projects and mixed-housing neighborhoods that have developed over time, and said it is the Commission's job to try and balance the Council's current objectives with potential impacts to the surrounding neighborhood. Mr. Patton has concerns that the four-bedroom units will be bringing in more people that will contribute to the already existing parking problem in this area and asked if the applicant will consider modifying the project. Mr. Wong responded that there will be built-in parking regulations in the Conditions, Covenants and Restrictions (CCNRs) that will mitigate any parking issues. Mr. Patton said the project is near BART and spoke about the possibility of lowering the City's parking requirements. Mr. Tam said to solve the neighborhood parking issues and not impact the neighborhood they have included adequate parking which includes three guest parking spaces per unit.

Commissioner Andrews disagrees that the project was compatible with the surrounding neighborhood. In response, Mr. Wong said the applicant's team was able to visit nearby neighborhood houses, noting that the neighboring houses were mostly run-down rentals, and spoke about the design challenges and that they did their best to match designs found throughout Hayward. Mr. Nguyen added the design team took into consideration the existing mix of multi-family units along Smalley Avenue. Ms. Andrews has concerns about parking issues and questioned whether the guest parking is sufficient for the development. Mr. Nguyen said they worked closely with City staff to ensure the City's parking requirement was followed and that the 18 parking spaces exceeds the City's parking requirements. Mr. Tam added they had proposed one more parking space, but this was discouraged by City staff and added it is a challenge to balance providing either more housing or more parking.

Mr. Willis asked about the one car garage unit and electric charging stations. Mr. Nguyen said this is an Americans with Disability Act (ADA) Unit, there will be an ADA space outside of the unit, and that every garage will have a charging station. Mr. Wong confirmed for Mr. Willis that the HOA will be able to enforce the CCNRs' parking regulations to avoid any parking issues and added that they worked with an attorney on developing this language.

In response to Commissioner Bonilla's question about density of the proposed project, Associate Planner Lee said the project is the densest within the Hayward City limits on Smalley Avenue. Mr. Bonilla does not agree that the project meets compatibility standards, has concerns with the moderate-income unit being the smallest, and the parking. Mr. Bonilla noted that in order to survive in the Bay Area there are extended families living



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together, and he asked about the price of the units. Mr. Wong said the development's target buyers are young professionals, and Mr. Tam shared the four-bedroom units will cost approximately \$700,000. Mr. Tam said in listening to the Commission's feedback that they can modify the design to provide only three-bedroom units with the same number of parking spaces. In response to Mr. Bonilla's comment about the dangers of walking to public transit, Mr. Tam replied that the goal is to make the neighborhood safe by continually improving the neighborhood through development.

Commissioner Faria agreed with the discussion about compatibility, location, and parking, noting that she visited the area today and saw firsthand the existing parking issues, and she has concerns about parking impacts to new and existing residents. Ms. Faria said she acknowledges the City's goal for pedestrian access to transportation, but also has concerns about pedestrian safety utilizing public transit and noted that there are still a lot of vehicles in Hayward's neighborhoods.

Mr. Tam pointed out that as a developer they have been working very diligently with City staff on the City's existing rules and regulations and following those regulations. When presenting a proposed project, they are subject to those rules, and now they are running into issues by following the City's requirements. He pointed out that they have been working with City staff for two years on the project.

Commissioner Goldstein spoke about the parking regulations in his neighborhood. He noted that some residents don't use all their on-property parking spaces and instead park on the street, which can cause a problem for neighbors. He agrees that the CCNRs can enforce the parking regulations but has concerns about spillover parking. Mr. Goldstein favored the project density, noted the Commission has been requesting City staff to maximize the density on future projects, and that this project is commendable for meeting those requirements. Mr. Goldstein does not agree with the affordable unit being smaller, said all the units should be equal sizes, and commended the applicant for including the affordable housing element.

Commissioner McDermott spoke about an experiment using different modes of transportation to see how long it would take to arrive at a destination, where the three modes were a private car, BART, and Catch-a-Ride Carpool, and the winner was BART. Ms. McDermott said if a developer comes forward with a proposed project that is close to public transportation that it is worth consideration. Ms. McDermott said when building higher density developments, parking will be a concern for the community. She requested the applicant to consider having a two-car garage for the ADA unit.

Commissioner Willis spoke about the expense of owning a car and that it is cheaper to utilize public transit or Lyft/Uber. Mr. Willis spoke about his development that allows for



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adequate parking in garages, driveways and street parking, but that residents will continue to own more cars. Mr. Willis favors the project. He said the two-car garages are sufficient and that the HOA can enforce the parking regulations.

Chair Faria opened the public hearing at 8:30 p.m.

Mr. Clem Paraiso, Smalley Avenue resident, expressed concerns that the proposed project will add to the existing neighborhood parking problems. In response to Chair Faria, Mr. Paraiso said he lives about four houses from the proposed project.

Commissioner Andrews said that she has studied urban planning and agrees with the density principles. She commented that when staff emphasizes developments with less parking, she would like staff to consider Hayward's residents who live and work in the City, as it is not always safe to utilize public transportation as neighborhoods can be dangerous for pedestrians.

Commissioner Bonilla said he also appreciates the density but has concerns about compatibility issues and the safety issues in taking public transportation. Mr. Bonilla said developers must take into consideration what is being built and where.

Commissioner Patton noted infill projects can be difficult and acknowledges that the applicant has worked diligently with City staff to make sure they followed all the City's building and planning regulations and zoning laws. Mr. Patton said there are approaches to zoning districts that allow for ranges, as what might be appropriate on one street might not be appropriate on the next street. He said the parking issue should be addressed by the Commission and not the HOA. Mr. Wong pointed out that in their review of the neighborhood, a lot of the houses either had one garage or no garages as owners maximized their rental properties by converting garages into living spaces, and this has added to the neighborhood parking issues. Mr. Wong said the design team wanted to alleviate and improve the area and at the same time address the parking issue by having two-car garages with three extra parking spaces to make the development all-inclusive which includes a greenbelt for the residents. Mr. Wong said they wanted to add two more parking spaces but was advised by the Planning and Traffic Controllers to provide group open space. Mr. Wong pointed out that the proposed project is not the densest property in the area and invited the Commission to drive to the area and view the makeup of the different multi-family units. Mr. Wong shared that he understands the concerns about walking in a dangerous neighborhood and offered options for residents if they do not want to walk to or from public transportation. Mr. Wong was amenable to adding two more parking spaces.

Commissioner Willis commented that he is aware of people who utilize public transit by biking to BART and then biking to their jobs in other cities.



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Mr. Tam said this is a project to change and improve the neighborhood and said someone needs to move forward, he acknowledges that change does not happen overnight, over time residents will feel safer walking the neighborhood, and that someone needs to take a stand for positive change to happen. Mr. Tam said that he has spoken to owners of multi-family units and noted that they are watching to see the outcome for this project.

Chair Faria closed the public hearing at 8:46 p.m.

Commissioner Goldstein requested staff to provide the neighborhood make-up. Associate Planner Lee responded that the majority are multi-family units with some single-family homes and said staff only considered the units within the Hayward City limits when he spoke about the density of the project. Mr. Lee pointed out that the project site is right next to County lands where there are denser developments but there are also some smaller lots that cannot accommodate denser developments. Mr. Lee also noted that staff did not analyze all the parcels and that the proposed project is a dense development but not the densest. Mr. Lee said the project followed the City's code for compatibility as the proposed project's height is 30 feet and the maximum height allowed is 40 feet. Mr. Lee said there are multi-family developments right next to the project site which are two stories and similar in bulk to the project, the project's parking slightly exceeds the City's parking requirement by one space, and the majority of the parking spaces are covered. In response to Mr. Goldstein's question of previous parking requirements, Mr. Lee noted that anything built prior to 1959, when the City's zoning code was implemented, had a requirement for single-family homes to have a one car garage. Mr. Lee said there are a lot of legal, non-conforming units that do not meet the City's current parking standards and confirmed for Mr. Goldstein this could be contributing to the current parking issues.

Planning Manager Buizer noted that down the block from the project site on Smalley Avenue there are County lands and staff does not know the County's parking standards which could also be contributing to the current parking issues.

Commissioner Patton said in hearing the feedback from the Commission and the issues raised regarding parking, he asked if the applicant would consider modifications to the project plans. Mr. Wong said that they would be agreeable to modifications.

Assistant City Attorney Brick reminded the Commission that the item is a recommendation to the City Council and that this is not the final approval. He said the Commission can recommend to City Council approval or denial, which can include a recommendation for more parking spaces. Mr. Brick said this recommendation would not require a continuance and will keep the item on the current scheduled timeframe. Mr. Brick confirmed for Commissioner Patton that the Commission can recommend a continuance.





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Mr. Tam said to expedite the process he requested if the Commission could provide the number of units and number of parking spaces so that his team would know what the goal is, and then they can work together with City staff. Mr. Tam said they have been working on this project for two years.

Commissioner McDermott said there is an effort to streamline the infill projects and she likes this process as the Commission often hears from developers how long it takes to go through the process. She said if the item were continued that would defeat the purpose of the infill checklist.

Commissioner Willis said the project complies with the City's requirements, especially regarding the minimum parking requirements. Mr. Willis said to continue the item would delay the project and the City currently has a housing crisis. Mr. Willis said the issue of parking is a bigger issue that needs to be discussed on a larger scale. Mr. Willis said the applicant has complied with all the City's requirements, paid all the fees, and staff has recommended the project. Mr. Willis favors the project.

Commissioner Willis made a motion, seconded by Commissioner Goldstein, to approve the staff recommendation.

The motion passed with the following vote:

AYES:	Commissioners Willis, McDermott, Goldstein Chair Faria
NOES:	Commissioners Andrews, Bonilla, Patton
ABSENT:	None
ABSTAIN:	None

### **APPROVAL OF MINUTES**

3. Approval of minutes of the Planning Commission Meeting Minutes of September 27, 2018.

Commissioner McDermott made a motion, seconded by Commission Willis to approve the Planning Commission Meeting Minutes of September 27, 2018. The motion passed with the following votes:

7:0:0 (AYES: Willis Jr., Andrews, Bonilla Jr., Faria, Patton, McDermott, Goldstein)



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**COMMISSION REPORTS**

**Oral Report on Planning and Zoning Matters:**

Planning Manager Buizer announced the next Planning Commission meeting will be on November 8, 2018.

**Commissioners' Announcements, Referrals:**

Commissioner Andrews said along with the 21<sup>st</sup> Century Library Grand Opening, there is also the Keep Hayward Clean and Green event this Saturday at Tennyson High School.

Commissioner Faria reminded everyone to vote on November 6, 2018.

**ADJOURNMENT**

Chair Faria adjourned the meeting at 9:01 p.m.

**APPROVED:**

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Ray Bonilla Jr., Secretary  
Planning Commission

**ATTEST:**

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Denise Chan, Senior Secretary  
Office of the City Clerk