

**PLANNING COMISSION MEETING  
TUESDAY, APRIL 14, 2016**

**PRESENTATIONS**



DEVELOPMENT SERVICES

# Nor-Cal Rock, Inc. – Appeal of Denial of Administrative Use Permit

# Agenda



- ▶ Basis for Appeal;
- ▶ Background & Setting;
- ▶ Findings for Denial;
- ▶ CEQA;
- ▶ Conclusions; and,
- ▶ Recommendation.

# Basis for Appeal



- ▶ Appeal Rests on Two Fundamental Claims:
  - 1) Claim that use pre-existed the City requirement for discretionary approval.
  - 2) Claim that the findings prepared for denial cannot be supported by evidence in the record.

# Basis for Appeal



**Claim that use pre-existed  
the City requirement for  
discretionary approval.**

# Background



## ► Timeline:

- October 2011 – Code Enforcement complaint about debris in roadway;
- January 2012 – Business License filed with City noting use at the site is “aggregates/retail,” backdated to 2009.
- February 2012 – Code Enforcement complaint about dust related to crushing;
- September 2013 – Code Enforcement complaint about dust and Concrete crushing use.





# CITY OF HAYWARD

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

Attachment XIII

This is your receipt when validated.  
Valid from 12/31/2012 through 12/31/2012  
Post until "Valid through" date.

## For Office Use Only

Tax # 146956  
SIC Code 5999  
Renewal Period (A, C, or O) A  
Business Type Code 98-E  
Special District \_\_\_\_\_

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

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

- (1) Today's Date: 11/17/11  
Date Business Commenced in Hayward 2009
- (2) Business Name & Location:  
Business Name NOR-CAL FLOCKERY  
No. & Street 30120 Industrial Park SW  
City, State, Zip Hayward Ca 94544  
Telephone No. (510) 636-9860 Fax No. (510) 383-2917  
E-mail Address: Frank@SNSAPOS.com  
Is business a P.O. box/mail drop? Yes ☐ No ☒  
Is this business conducted in/from a residence? Yes ☐ No ☒  
If mailing address is different than above, please indicate below:  
Attn: Steve Navarro  
Address: 477 Roland Way  
City, State, Zip Oakland Ca 94621

(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: Steve Navarro

Home Address 27253 Greenhaven Rd.  
City, State, Zip Hayward Ca 94542  
Home Telephone No.: (510) 889-6428

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

Is the business: ☐ Retail ☐ Wholesale ☐ Commercial/Residential Rental  
☐ New Items ☐ Used Items ☐ Manufacture  
☐ Office ☐ Service ☐ Storage/Warehouse (No ea/ea)  
☐ Firearms ☐ Other (Specify) \_\_\_\_\_

- (6) If business is property rental: no  
• Number of units at location \_\_\_\_\_  
• Is there more than one address at this location? Yes ☐ No ☒  
• Do you own additional rental property in Hayward? Yes ☐ No ☒

- (7) Contractor License No. and Classification. (If licensed under provisions of the State Business Professions Code, Section 7033) 915550

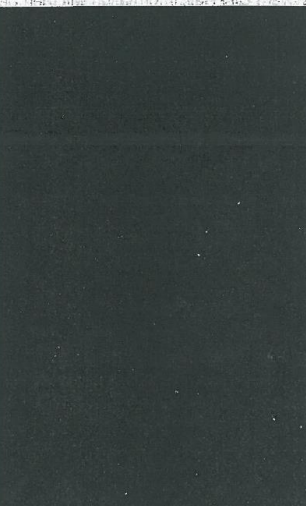
## AFFIDAVIT

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 11/17/11 at Oakland Ca  
(Date) (City and State)  
Frank Sanchez Frank Sanchez  
Signature Print Name

V.P.  
Print Title

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



Zoning Dist.: F  
Initial: SMB  
Date: 1/25/12  
Notes: \_\_\_\_\_

Continuation of use  
exp. 12/31/12

**PAID**  
JAN 25 2012  
CREDIT CARD  
REVENUE OFFICE

# Additional Claims



- ▶ Claim that Planning Manager Verbally Approved Use.
- ▶ Claim that Planning Staff Verbally Approved Use.
- ▶ Claim that City Policy Changed in 2013.
- ▶ Claim that Use was Already Established at the Site.



# Historic Aerials



December 2005

# Historic Aerials



February 2007



# Historic Aerials



August 2008

# Historic Aerials



December 2008



# Historic Aerials



October 2009



# Historic Aerials



October 2015

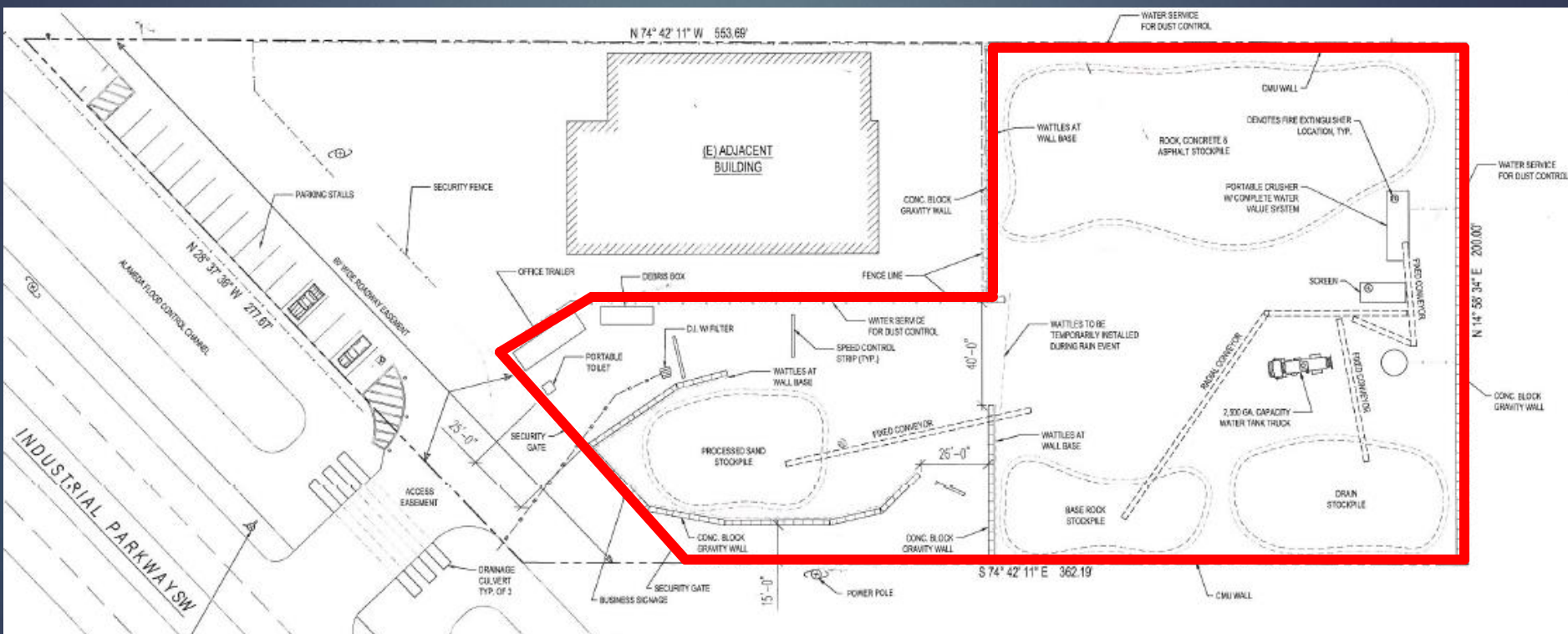


# Background



- ▶ In October 2013, the applicant submitted an Administrative Use Permit for the already established outdoor concrete and aggregate recycling use and has continued to operate since that time.

# Site Plan



# Existing Use





# Existing Use





# Existing Use





# Existing Use



# Background & Setting



- ▶ Other Concrete Recyclers in Hayward.
  - ▶ A1 Tank (February 2015) approved to operate inside of a building. Located on major arterial and near residential neighborhoods. Applicant has pulled grading and foundation permit for building.
  - ▶ Bay Area Concrete Recycling (approved May 2015) approved outdoor concrete recycling at the end of Depot Road adjacent to auto wrecking yards and sewage treatment plant. Applicant is refining design based on stormwater pollution control comments.



# Basis for Appeal



**Claim that the findings  
prepared for denial cannot  
be supported by evidence  
in the record.**

# AUP Findings



- ▶ An approving authority may approve or conditionally approve an application when all of the following findings are made:
  - ▶ The proposed use is desirable for the public welfare or convenience;
  - ▶ The proposed use will not impair the character and integrity of the zoning district and surrounding area;
  - ▶ The proposed use will not be detrimental to the public health, safety, or general welfare; and
  - ▶ The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.



# Examples of Conditionally Permitted Uses in Industrial District



## ▶ Administrative Use Permit

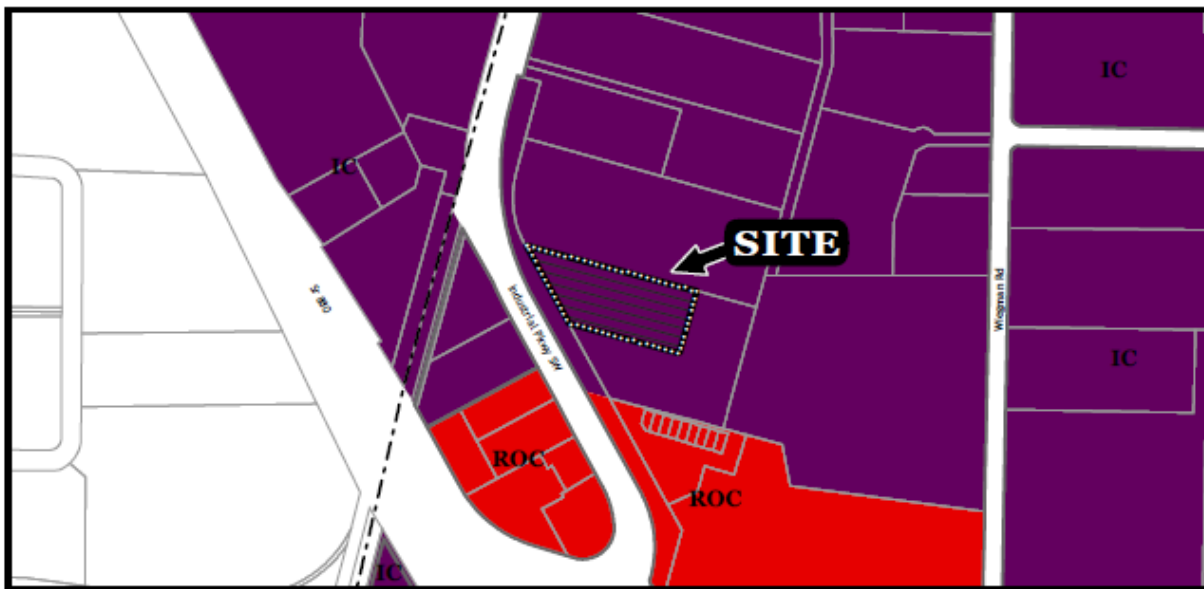
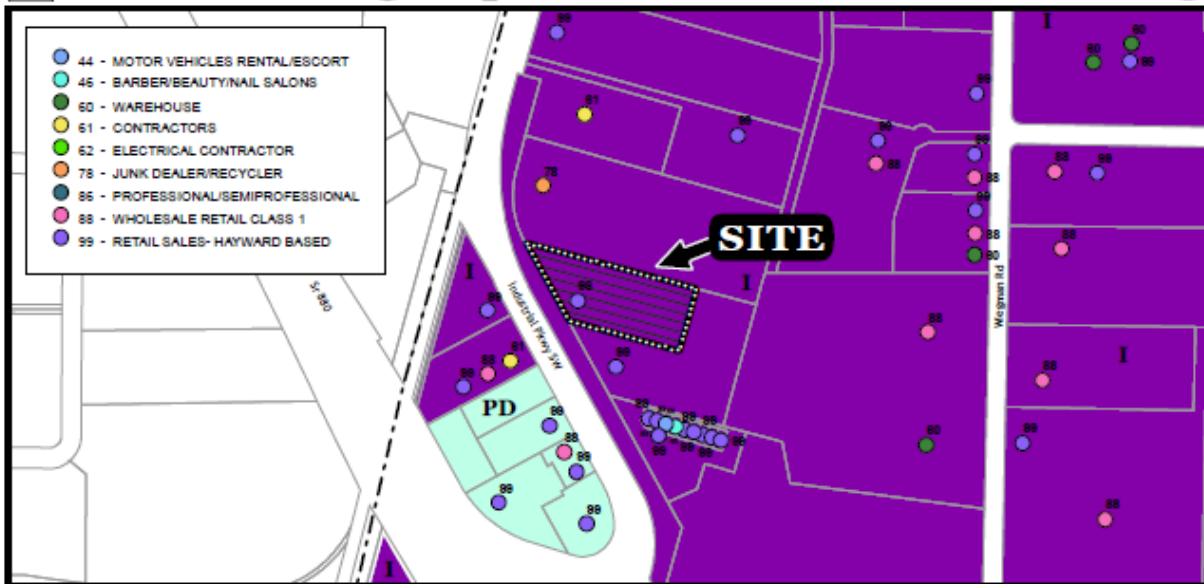
- ▶ Commercial Amusement Facility
- ▶ Health Club
- ▶ Brewery/distillery
- ▶ Contractor Storage Yard
- ▶ Industrial Equipment Sales/Rental
- ▶ Perfume/Vinegar Manufacturer
- ▶ Recycling Collection Area
- ▶ Sandblasting Activities
- ▶ Truck Terminal, Rental, Storage
- ▶ Vehicle Dismantling, **among others**

## ▶ Conditional Use Permit

- ▶ Hazardous Materials Storage
- ▶ Major Outdoor Storage
- ▶ Recreational Vehicle Storage
- ▶ Public Storage
- ▶ Bar, cocktail lounge
- ▶ Sale of Retail Goods with Regional Marketing Base and Visible from I-880 or Hwy 92
- ▶ Nursery, **among others**



# Area & Zoning Map





View from Sidewalk in Front of Motel 6





View from Interstate 880 Corridor



View from Rear Property – Proposed Commercial Center





View from Panda Express – Outdoor Eating Area





Dust on rear property – proposed commercial center



# CEQA



- ▶ A City is not required to complete an Initial Study on a project that is disapproved thus the City did not request formal Air Quality/Greenhouse Gas, Health Risk Assessment or Noise Studies for the project.
- ▶ CEQA prepared for other outdoor concrete recyclers shows that there are impacts in the areas of aesthetics, dust, air quality and noise and generally requires mitigation of these impacts.

# Conclusions



- ▶ The use is not the same as represented on the business license.
- ▶ Outdoor concrete crushing and recycling was not previously established on the site.
- ▶ Outdoor concrete crushing and recycling is significantly more intense than passive truck and equipment storage.
- ▶ There is no written record supporting the applicant's claim that the use was permitted by any member of Planning staff.



# Conclusions



- ▶ Outdoor materials processing and storage was and continues to be subject to discretionary approval.
- ▶ While there is a need for concrete recycling in the region, there are appropriate areas and measures for minimizing the impacts of such a use.
- ▶ There is a fundamental mismatch between the proposed outdoor concrete crushing activity and the nearby regional commercial center and area as envisioned by the City's General Plan.

# Recommendation



Staff Recommends that the Commission Deny the Appeal and Uphold the Planning Director's Decision Based on the Findings Set Forth in Attachment I to the Staff Report.



# Questions & Discussion

