

## **SPECIAL USE PERMIT**

<b>FILE NO.</b>	<b>SP12-033</b>
<b>LOCATION OF PROPERTY</b>	<b>North side of Charles Street, 750 feet west of Oakland Road</b>
<b>ZONING DISTRICT</b>	<b>HI – Heavy Industrial District</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Heavy Industrial</b>
<b>PROPOSED USE</b>	<b>Special Use Permit to allow a recycling transfer facility use in an existing building and yard on a 3.83 gross acre site.</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Exempt</b>
<b>OWNER</b>	<b>TSMMLLC PO Box 25558 San Jose, CA 95159</b>

### **FACTS**

1. The subject Special Use Permit application proposes to use an existing 9,581 square foot structure and an existing 26,200 square foot yard for a recycling transfer facility use on a 3.83 gross acre site.
2. The recycling transfer facility use will involve the sorting, handling, batching, bailing of recyclable materials delivered to the site via truck from construction sites.
3. The site has a designation of HI Heavy Industrial in the Envision San José 2040 General Plan.
4. The subject site is located in an HI Heavy Industrial Zoning District
5. Recycling transfer facilities require a Special Use Permit in the HI Heavy Industrial Zoning District.
6. The recycling transfer facility use requires 1 parking space per employee of the largest shift plus 1 parking space per facility vehicle.
7. The company will have 6 employees at the largest shift and 5 facility vehicles, thus requiring 11 parking spaces.
8. The proposed project provides 11 parking spaces.
9. All sorting operations will be confined within enclosed buildings. Outdoor storage areas are designated on the plans.
10. Under the provisions of In-Fill Development Projects Section 15332 of the California Environmental Quality Act, this project is exempt from the environment review requirements of Title 21 of the San José Municipal Code implementing the California Environmental Quality Act of 1970, as amended.

## FINDINGS

The Director of Planning finds that the following are the relevant facts regarding this proposed project:

The Director of Planning concludes and finds, based on the analysis of the above facts, that:

1. The proposed project is consistent with the San José 2040 General Plan.
2. The proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.
3. The proposed project is in conformance with the California Environmental Quality Act

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning finds and concludes pursuant to Section 20.100.820 of the San José Municipal Code:

1. The proposed use as conditioned at the location requested will not:
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area;
  - b. Impair the utility or value of property of other persons located in the vicinity of the site;
  - c. Be detrimental to public health, safety, or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the development features prescribed in this Title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and
3. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
  - b. By other public or private service facilities as are required.

## APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Special Use Permit shall automatically expire two years from and after the date of approval by the Director of Planning, or by the Planning Commission on appeal, granting this Permit, if within such two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Special Use Permit. The Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.

3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
4. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
5. **Conformance with Plans.** Except as noted under condition no. 6 below, construction and development shall conform to the approved plans entitled, "SP12-033 / Occupancy Change," on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
6. **Revocation.** This Special Use Permit is subject to revocation for violation of any of its provisions or conditions.
7. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
8. **Operations.**
  - a. All sorting, handling, batching, and/or sorting activities associated with the recycling processes of recyclable materials shall be conducted within the existing facility building and prohibited in the facility yard or outdoor areas.
  - b. Bins which contain earth, rock, concrete, and/or asphalts shall be stored within their bin, box or transportation container and stored or cycled within the facility yard.
  - c. Operators' trucks, bins, boxes, and containers used for material collection, staging, and/or sorting shall be allowed to be staged, stored and cycled in the facility yard (outside the facility building) but processing of recyclable materials shall be conducted within the facility building only.
9. **Hazardous Materials Storage.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored and in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
10. **Industrial Waste.** If industrial waste, as defined by Section 15.12 of the San José Municipal Code, is to be discharged into the sanitary sewer system, a clearance shall be obtained from the Water Pollution Control Plant, Industrial Waste Section.

11. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department to the following requirements to the satisfaction of the Director of Public Works:
  - a. *Sewage Fees.* In accordance with the City Ordinance, all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits are due and payable.
12. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
  - b. *Construction Plans.* This permit file number, SP12-033, shall be printed on all construction plans submitted to the Building Division.
  - c. *Building Permit Required.* A Building Permit is required to allow the change in occupancy to ensure compliance with ADA requirements.
  - d. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms to all applicable requirements of the subject Permit, including the plan sets.
13. **Fire Code Compliance.** Compliance with all applicable fire and building codes and standards relating to fire and panic safety shall be required to the satisfaction of the Fire Chief during the Building Permit process.
14. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
15. **Mechanical Equipment.** All roof equipment shall be screened from view.
16. **Building and Property Maintenance.** The developer shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
17. **Landscaping.** Planting is to be provided as indicated on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
18. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
19. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.

20. **Fences.** The developer of this project shall be responsible to the repair and replacement of all perimeter fences as needed.
21. **Lighting.** All new outdoor lighting on the site shall conform to the Zoning Code and the City's Outdoor Lighting Policy and shall use low-pressure sodium (LPS) lighting fixtures.
22. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
23. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
24. **Hours of Operation.** The use shall not operate between the hours of 7:00 p.m. and 7:00 a.m.
25. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
26. **Outside Storage.** Outside storage bins shall be covered in conformance with the City of San José City Council Policy 6-29.
27. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

**APPROVED** and issued this 1<sup>ST</sup> day of March, 2013.

JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

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Deputy