

NEW HAVEN CITY PLAN COMMISSION SPECIAL PERMIT NEW HAVEN CITY PLAN COMMISSION COASTAL SITE PLAN REVIEW

RE: 19 WHEELER STREET. Special Permit to allow for acceptance of commercial and industrial municipal solid waste and the recovery of designated and non-designated recyclable material. (Owner: Frank Antonacci of Airline Avenue Realty, LLC; Applicant: Jonathan Murray of Murphy Road Recycling, LLC; Agent: Mark Zessin of Anchor Engineering Services, Inc.)

REPORT: 1511-05

ACTION: Approval with Conditions

Note: Companion CPC Report 1511-03 for the same site.

Previous CPC Actions: CSPR and SESC to construct new bulky waste transfer facility (CPC 1249-04, 07/1/98), Special Permit and CSPR to operate a solid waste transfer and volume reduction facility in an IH zone (1395-03, 10/18/06), Transfer of Special Permit to Murphy Road Recycling (1409-02, 10/17/07), SPR and CSPR for remediation project under DEP consent order in an IH zone (1429-06, 6/17/09), Renewal of Special Permit and CSPR to operate a solid waste transfer and volume reduction facility in IH zone (1457-09, 10/19/11), SPR and CSPR for compressed natural gas fueling station (1488-02, 4/16/14), CAL for compressed natural gas fueling station for vehicles (1488-05, 1/15/14).

Submission: Received 9/17/15, including: letter from Mark Zessin, Anchor Engineering; SPR Application Packet including SPECIAL PERMIT, DATA, CSPR, SITE, and SESC forms; DEEP Permit to Operate issued 07/17/15; Operation and Management Plan for Construction and Demolition/Municipal Solid Waste Volume Reduction Facility, revised 4/25/14; application fee of \$420 (including CSPR); 5 sheets of application drawings. Email dated Nov 12, 2015, requesting withdrawal of Special Permit Modification application and new application for (new) Special Permit and CSPR; fees to be transferred. Revised application materials Received Dec 8, 2015: one binder including letter/narrative answering queries from CPC staff, supporting tables and drawings. Revised materials received January 12, 2016: Solid Waste Site Plan (Sheet 1 of 3) and Improvement Location Survey, revised 1/12/16.

BACKGROUND

Per the City of New Haven zoning regulations Sections 46 and 64, Jonathan Murray of Murphy Road Recycling, LLC has applied for a Special Permit and Coastal Site Plan Review (CPC Report 1511-03) to allow for the acceptance of Commercial and Industrial municipal solid waste (aka "dry MSW") and the recovery of designated and non-designated recyclable material from the dry MSW. No new buildings are proposed, although some precast concrete block or precast concrete barriers will be installed to partition storage areas for recovered designated and non-designated recyclable material. Nineteen (19) Wheeler Street is located within the New Haven Port District, in a flat area adjacent to the Quinnipiac River. The site is located in a Heavy Industrial (IH) District and is surrounded by other industrial uses.

As the site is on the waterfront of the Quinnipiac River it is subject to coastal site plan review under Section 55 of the Zoning Ordinance. A CSPR was approved with the original facility in 1998, and again on multiple occasions including granting of the Special Permit in 2006, a remediation project in 2009, Special Permit renewal in 2011, and site plan review for a compressed natural gas fueling station in 2014.

Current site conditions: The 15.02 acre site is located on the east shore of the Quinnipiac River as it meets the Mill River and New Haven Harbor, north of the I-95 Pearl Harbor Memorial Bridge. Across the river from the site are properties fronting on River Street in Fair Haven. Vehicular access to the site is via an easement drive from the corner of Wheeler Street and Goodwin Street.

Facility description: The site includes the solid waste transfer/volume reduction building, a vehicle maintenance and container repair building, an office building, a scale house, two scales for weighing collection and transfer vehicles (one inbound and one outbound), empty waste container staging areas, and associated asphalt-paved

roadways, and parking areas. The site is entirely paved with either asphalt or crushed stone. A short waterfront area on the north side of the parcel is not used presently for any site activities.

The solid waste transfer/volume reduction building contains a 17,400 net SF tipping floor with a transfer trailer loadout tunnel on either side. There are 7 doors along the west side of the building, five for truck access to the tipping floor with sufficient vertical clearance for the dumping trucks, and two for trailer access to the tunnels.

Proposed Activity/Operation: The proposed activity consists of the operation of the same features as previously permitted in 2006 and 2011: a processing building with loading bays, a tipping floor, a crushing area with a pushwall, various indoor and outdoor storage areas, outdoor staging areas for empty/loaded containers, offices; and two truck scales. Trucks enter the site over the incoming scale, approach the processing building and back up to the tipping floor, leave behind the waste, and exit over the outgoing scale. Areas of the tipping floor have different uses depending upon the types of wastes being handled, including bulky waste crushing (eastern portion of tipping floor), metals recovery and storage (northern side of the tipping floor), loadout (central and western portion of tipping floor), maneuvering areas along the tunnels for trailer unloading, and collection vehicle unloading.

Although the applicant has stated that no new buildings are proposed, the applicant is seeking a new Special Permit to allow for the acceptance of commercial and industrial municipal solid waste (dry MSW) and the recovery of designated and non-designated recyclable material from said waste. The only construction will be to add precast concrete block or precast concrete barriers to partition storage areas, the installation of which will take approximately two weeks.

Current DEEP Permit to Operate:

The applicant has received a PERMIT TO CONSTRUCT AND OPERATE (No. 09301190-PCO) by the Commissioner of Energy and Environmental Protection (DEEP) which supercedes its past permit 0930996-PO issued on January 18, 2011. This permit expires on January 18, 2016. The permit contains the following authorization:

1. Hours of operation: Monday through Friday 5:30 AM to 7 PM; Saturdays 6 AM to 5 PM.
2. No more than 967 tons/day (TPD) of (a) construction and demolition (C&D) waste; (b) non-putrescible municipal solid waste; (c) oversized municipal solid waste (OMSW); (d) scrap metal including appliances containing chlorofluorocarbon (CFC) liquid; (e) propane tanks without valves; (f) cardboard; (g) paper; (h) commingled recyclables; (i) gypsum wallboard; (j) scrap tires; (k) clean wood; (l) creosoted wood; (m) asphalt roofing shingle waste (ARSW); and (n) street sweeps and catch basin cleanings.
3. The applicant is authorized to receive materials as noted:
 - Maximum 400 TPD of C&D waste, OMSW, Gypsum Wallboard, Scrap Metal, Scrap Metal Appliances, Scrap Tires, Clean Wood, Creosoted Wood, ARSW, Decanted Street Sweeps and Catch Basin Cleanings;
 - Maximum 500 TBD of Non-putrescible MSW;
 - Maximum 67 TBD Paper, Cardboard and Commingled Food and Beverage Containers.
4. The applicant shall store materials only in designated areas and in accordance with the table below. Fully loaded containers of solid waste shall be transferred from the facility within two (2) business days:

Maximum storage capacity

Material	Volume (cy)
C&D waste, unprocessed	600
C&D waste, processed	700
OMSW	200
Gypsum wallboard	40
Scrap metals	390

Material	Volume (cy)
Scrap metal appliances	25 (64 units/267 lbs.)
Scrap tires	60
Clean wood, unprocessed land clearing and brush (185 cy bunker and 100 cy trailer and/or containers)	285
Clean wood, unprocessed and processed (woodchips)	4,000
Creosoted wood	400
ARSW	285
Street sweeps, decanted, and catch basin cleanings	100
Non-putrescible MSW, unprocessed	600
Non-putrescible MSW, compacted	700
Paper, unprocessed	285
Cardboard, processed	100
Commingled food and beverage containers, unprocessed	285
Total	9,055

The DEEP permit expires on January 18, 2016, but may be revoked, suspended, modified, renewed, or transferred in accordance with applicable laws. The owner has filed a timely renewal application for its solid waste permit, which will take some months for CT DEEP to review and process. However, according to Connecticut General Statutes (CGS) Section 4-182 (b), “when a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.”

SPECIAL PERMIT

Section 64 of the New Haven Zoning Ordinance states:

Statement of purpose. The development and execution of a comprehensive zoning ordinance is based upon the division of the city into districts, within which the *use* of land and *structures* and the bulk and location of *structures* in relation to the land are substantially uniform. It is recognized, however, that there are certain *uses* and features which, because of their unique characteristics, cannot be distinctly classified or regulated in a particular district or districts, without consideration, in each case, of the impact of such *uses* and features upon neighboring *uses* and the surrounding area, compared with the public need for them at particular locations. Such *uses* and features are therefore treated as special permits.

Special Permit Criteria	Comments
a. <i>Burden of proof.</i> A special permit shall not be considered an entitlement, and shall be granted by the Commission only after the applicant has demonstrated to the satisfaction of the Commission that all ordinance requirements are met.	Applicant has submitted plans and other information indicating that the proposed use will continue to be conducted in a manner consistent with Section 46(h) of the City of New Haven Zoning Ordinance
b. <i>Ordinance compliance.</i> The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use as set forth in this ordinance. Any accessory use to a special permit must receive express authorization from the commission.	The proposed use is consistent with the uses in the IH zone.

Special Permit Criteria	Comments
<p>c. <i>Comprehensive Plan of Conservation and Development.</i> The Commission shall determine if the proposed special permit's use and improvements comply with the City's development plans.</p>	<p>The facility does not have a water-dependent or port use. Further, it is located in the port area, which is designated specifically in the Comprehensive Plan for port-related activities. Non-water-dependent use is not precluded, however.</p>
<p>d. <i>Natural features.</i> Special permits must preserve trees and other natural site features to the greatest extent possible so as to minimize their impact upon surrounding properties and the district, and must not have an adverse impact on significant scenic vistas or on significant wildlife or vegetation habitat.</p>	<p>No construction or demolition is planned for the site, therefore no natural features of the site will be disturbed.</p>
<p>e. <i>Hazard protection.</i> The proposed use shall not have a detrimental impact upon the use or peaceable enjoyment of abutting or nearby properties as a result of vibrations, fumes, odor, dust, erosion, sedimentation, flooding, fire, noise, glare, hazardous material use, storage, transportation or disposal, or similar conditions.</p>	<p>The existing site use generates a significant amount of truck traffic. The exhaust from the truck traffic (such as the particulate matter emissions) is a health hazard and should be minimized as much as possible. In particular, idling shall be discouraged as much as possible through appropriate signage and active vigilance on the part of Murphy Road. Idling is prohibited per RCSA §22a-174-18, and adherence to the idling prohibitions stipulated therein is necessary to satisfy the hazard protection requirement of the Special Permit. The site is paved and swept regularly to prevent dust from emanating from the roadways. Provision for dust and odor control is provided within the facility. A fire protection plan is in place.</p>
<p>f. <i>Historic preservation.</i> Features of historic significance shall not be significantly adversely affected by the granting of any special permit. If the subject property is within or abuts a historic district, the Commission may request a report from the Historic District Commission regarding those features essential to preserve the historical integrity of a building, district, or site or historical significance.</p>	<p>There are no historic resources on site nor is it located in a historic district.</p>

Special Permit Criteria	Comments
g. <i>Design and architectural compatibility.</i> The operational and physical characteristics of the special permit shall be compatible with the surrounding area and the neighborhood in which it is proposed. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access, and circulation, building style and height, bulk scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors.	The site is well operated and managed and upon inspection appears clean and well kept. Drainage is functioning according to plan.
h. <i>Property values.</i> The use and site design shall not have a detrimental effect on the property values in the surrounding area.	The site is in an established commercial/industrial area, and renewal of the permit is not anticipated to have a detrimental effect on surrounding property values.
i. <i>Traffic impact.</i> The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation on, adjacent or nearby the site. The Commission may require a traffic impact study be submitted to it by the applicant for any special permit use of land. The study shall consider traffic patterns and adequacy of proposed off-street parking and loading resulting from the proposed development.	While the site generates significant truck traffic in the port area, the proposed modification of the permit does not present increased capacities which would generate yet more traffic.

Section 46 of the New Haven Zoning Ordinance states:

- d. In evaluating an application made under this section for a Special Permit to continue the operation of an existing, nonconforming facility, the Commission shall take into consideration the health, safety and welfare of the public, in general, and the neighborhood, in particular. The Commission may grant a special permit with conditions attached thereto for the purpose of assuring compatibility with the neighborhood and protection of the health, safety, and welfare of the public in general. In so determining, the Commission shall consider the following operational criteria:

New Haven Zoning Ordinance §46 Criteria	Comments
1. Traffic and access to the site;	The site has adequate access and the truck traffic around the site is not anticipated to increase appreciably under the Special Permit. There is ample truck stacking room on site. However, despite the paved conditions of the site, there are concerns about vehicle tracking onto Wheeler Street. The Operation & Maintenance Plan includes provision for sweeping regularly and whenever the need arises.

New Haven Zoning Ordinance §46 Criteria	Comments
2. Potential air and water quality impact;	See Comments for <i>e. Hazard Protection</i> with regards to air quality impact from idling vehicles at the site. With regard to water quality, the site has a stormwater management system regulated under a General Permit from the CTDEEP. The stormwater system would accept and treat any impacted runoff from the increased storage, most likely mitigating water quality impacts of the expansion. Vegetation has grown up along the shoreline filtering the runoff entering the river from the site.
3. Potential for creating a nuisance;	Noise and dust may affect upland residences. The site is subject to noise ordinance restrictions and there is a plan in place for dealing with fugitive dust and litter control.
4. Facility size and existing capacity of other solid waste facilities in the region;	The facility size on an ample lot of 15.02 acres is consistent with the other uses in the area and does not pose a problem.
5. Proximity to sensitive receptors including but not limited to schools, community gardens, parks, playgrounds, day care facilities, health care facilities, nursing homes, and residences;	While the site is not far from sensitive receptors such as residences (but none within 250') and parks, etc. (none within 500') the measures to protect air and water quality will mitigate some of the most pressing concerns about these sensitive receptors.
8. Presence of other potential nuisance sources and evaluation of the cumulative impacts on public health and safety;	N/A
9. Criteria set forth in section 64(e), as appropriate;	See previous table.

PUBLIC HEARING: Two public hearings for this special permit occurred on November 18 and December 16, 2015. Full transcripts of both hearings are available at City Plan.

At the November 18 hearing, Anne Hartjen of the City Plan Department introduced the application noting that the application was for a slight change to the existing permit in terms of what can be accepted on the site. Ms. Hartjen noted that the City Plan Department hired an outside consultant to review the application and provide feedback because of the specialized nature of the application. Because there were a number of outstanding issues at the time of the public hearing, Ms. Hartjen advised the Commission to begin the hearing but leave it open until the following month to allow time for the applicants to respond. Mark Zessin and Matt Brown of Anchor Engineering, agent for the project gave a brief overview of the application and responded to questions of Commissioners. Mr. Zessin reiterated that the application was substantially similar to permits approved in 2006 and 2011, with the only change being to allow the acceptance of dry municipal solid waste (dry MSW) on site, in addition to dry commercial waste. Putrescible waste (or waste that rots) would not be allowed under either the applicant's DEEP permit or the Special Permit from the City. Mr. Zessin also stated that because the waste that would come in under this new permit can be compressed, each truckload will be denser and heavier, and there will therefore be fewer truckloads entering the site each day. One speaker, Lynne Bonnett, spoke to a number of concerns she has relating to the activities taking place on the site: dust, air pollution, and truck traffic on Goodwin Street. Commissioner Mattison encouraged Ms. Bonnett to return to the December public hearing with a more concrete set of recommendations.

At the December 16 hearing Ms. Hartjen re-introduced the application and stated that the applicant had provided answers to a number of outstanding questions that had been asked just before or at the November hearing. Ms.

Hartjen recommended that the hearing be closed at this meeting, while leaving the item open to be voted upon in January 2016 to allow the applicants additional time to revise their site plan. Edward Spinella, attorney for the applicants, reiterated much of the information that Mr. Zessin presented in the November hearing, emphasizing that the new waste stream being sought in this permit is non-putrescible, the site offers recycling services that provide health and environmental benefits, and that the previous permits granted for the site by both the City and DEEP are substantially similar to the one being sought currently. Mr. Spinella stated that the volume of waste allowed by the permit, 967 tons per day, is consistent with previous permits and is far above the daily average volume, per industry standard. The applicants expect only a modest increase, at most, in volume and traffic under the new permit. Ms. Bonnett once again testified against the application; her main concerns regarding the application relate to the operation's effect upon air quality in the surrounding residential neighborhood, trucks using neighborhood streets to access the site, and New Haven taking in more than its fair share of the region's waste. She also noted that the proposed operations are not in accordance with *Vision 2025*, the recently approved comprehensive plan for the city. Anna Abomahanaka (phonetic) and Rachel Russell, members of the Evolutions Program at the Peabody Museum, gave a brief presentation presenting findings about the incinerator's effect upon air and water quality in East Shore, Ms. Bonnett stated she would like to know more about the relationship between the applicant's activities and airborne pollutants. Matthew Nemerson, Economic Development Administrator of the City, testified that he had concerns about the difficulty of keeping all putrescibles out of the waste stream. Mr. Nemerson also stated that this water-adjacent site, would be best use for a water-dependent use, and that transfer station uses are generally concentrated off exits 8 and 9 of I-91. In response to these comments, Mr. Spinella stated that the site's land use is consistent with the heavy industrial zone it is located in and that the applicants offer many benefits to the community, including providing a natural gas fueling station and jobs. Mr. Spinella stated that the site has quarterly monitoring of air quality, as required by the DEEP permit, and any vehicles controlled by the applicant do not use travel routes through the neighborhood. The applicants will instruct haulers to the site to not use Goodwin Street, but they do not have control over the route these outside haulers choose to take. Mr. Spinella closed his response by saying that the applicants have never received a complaint from any neighbors and has never received a citation or violation notice from the City or DEEP. Commission Chairman Edward Mattison then closed the public comment portion of the public hearing.

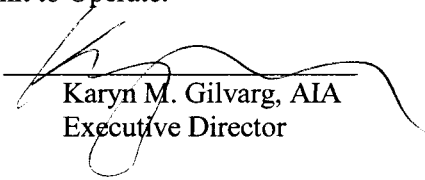
CONDITIONS OF APPROVAL:

The conditions of approval of the modification of the Special Permit under §64 and §46 of the New Haven Zoning Ordinance and the Coastal Finding are as follows:

1. Operations shall be conducted in a manner consistent with the plans and application submitted on September 17, 2015, unless modified herein. The Special Permit shall expire on January 20, 2021.
2. The Special Permit is granted to Murphy Road Recycling, LLC for its sole use and is not transferable or assignable without the express approval of the Commission.
3. The applicant shall record on the City land records an original copy of this Special Permit report (to be provided by the City Plan Department) and shall furnish written evidence that the document has been so recorded (showing volume and page number) to the City Plan Department within 30 days of the date of publication of approval.
4. Hours of Operation are limited to 6 AM to 7 PM Monday through Friday and 6 AM to 5 PM on Saturdays. Hours of Operation shall include the arrival and departure of trucks and delivery and removal of materials and equipment (Sec 46 (5) Operating Conditions (i)). No facility maintenance, loading or unloading shall occur outside of these hours. No operations will be allowed on Sundays.
5. A copy of the new CT DEEP Stormwater Permit shall be provided to City Plan once the existing permit expires in September 2016.

6. A copy of the renewal of the CT DEEP Permit to Construct and Operate a Solid Waste Volume Reduction Plant shall be provided to City Plan when it is received by the applicant.
7. The facility shall comply with all state and local regulations. In cases where City and State regulations differ, the more stringent standard will apply.
8. Container storage shall be limited to the area surveyed and shown on the plan entitled "Solid Waste Site Plan, Sheet 1 of 3" created by Anchor Engineering and with a revision date of 1/12/16. No container storage will be allowed in the flats/terraces below Fairmont Avenue or above contour 22 as shown on this site plan.
9. "Roll off" containers parked or stored on site shall not be stacked.
10. The site shall be maintained free of litter, trash, and debris.
11. There shall be no truck access or queuing to the site from Goodwin Street.
12. Non- "roll off" containers may not be stacked more than 2 high, or 15 feet, whichever is less.
13. No municipal solid waste as defined by the Connecticut General Statutes may be accepted/handled/stored at the site, except as permitted under the DEEP's Permit to Operate.
14. No other materials otherwise regulated under §46d may be accepted at the site.
15. Murphy Road Recycling LLC will prohibit idling of vehicles on-site and inform truck operators of this prohibition through signage on the premises and enforcement by facility operators and/or the Building Official.
16. No hazardous wastes as defined by the Connecticut General Statutes shall be accepted, disposed, stored, or otherwise handled at the facility. Storage shall be done in conformance with proper fire control measures.
17. No open pile storage of any waste materials, including but not limited to tires or wood, and listed in this permit application are allowed. All waste must be received and stored indoors or in a proper closed container for outdoor storage as allowed by the Permit to Operate.

ADOPTED: January 20, 2016
Edward Mattison
Chair

ATTEST: 
Karyn M. Gilvarg, AIA
Executive Director