



August 15, 2019

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City of Hayward, Planning Department
777 B Street
Hayward, CA 94541

RE: Application No. 201702969
2701 West Winton Ave.
Request for Zoning Verification Letter

Background

On January 25th, 2018 the Planning Commission approved both a vesting tentative parcel map (VTPM) and a final site plan review (SPR) for our proposed 507,500 sf building. These entitlements were found to be consistent with the Hayward 2040 General Plan. Grading and site preparation commenced in late August 2018, and the building department subsequently issued building permit no. 201800779 on Sept 19, 2018. Vertical construction of this approximately \$85M industrial facility commenced shortly after building permit issuance and has been ongoing. Construction of the shell is anticipated for completion in September 2019.

Black Creek Group (BCG) has an agreement with a tenant (Amazon) to lease the entirety of the building subject to completion and receipt of the Certificate of Occupancy. We were not expecting any issues obtaining occupancy for Amazon's proposed use; however, over the past few weeks - following the City's adoption of a new industrial ordinance, guidelines and regulations on June 4, 2019 - Amazon met with staff who raised questions about whether Amazon's proposed use conforms with our vested rights and entitlements under our nearly completed warehouse-distribution facility. Amazon and BCG were initially told that the new ordinance applied, and that a new discretionary approval would need to be applied for.

Assistant City Attorney Joe Brick confirmed to our legal counsel that our entitlements, and the vested rights under the VTPM and California's common law vested rights law, must be respected, and that the City's pre-June 4, 2019 Industrial zoning ordinance applies. We were told to submit this Zoning Verification letter to planning staff for the Planning Director's determination. We have worked closely with Amazon to provide the City with comprehensive information about Amazon's proposed use in order to resolve any open questions, and to eliminate any doubt that the Amazon warehouse distribution uses fall within the City's Industrial zoning as it stood before June 4, 2019. To be clear, BCG and Amazon are proposing uses that fall within our 2018 entitlements; we are not seeking any modifications to those approvals.

Amazon's Proposed Operations Fall Under the City's Pre-2019 Industrial Ordinance

Amazon Logistics ("AMZL"), is a service fulfillment of customer orders. The operation provides the "last mile" of the customer order delivery phase. Packages will be shipped to this Hayward, CA location from Amazon fulfillment and sortation centers, stored at the warehouse facility, loaded into small delivery vans, then delivered to the customer premises.

At our proposed West Winton Avenue, facility in Hayward, AMZL anticipates approximately fifteen (15) line haul trucks delivering product to the Delivery Station in a 24-hour period daily. Packages are stored, then sorted by routes and placed onto movable racks. Sorting occurs in two shifts, first, taking place between 11pm and 6:30am and second, 8am to 1pm with approximately 160 Amazon associates entering and departing between those times (80 for each shift). Additionally, there will be approximately 10 full time Amazon managers supervising operations, staggered in those time frames.

Beginning at approximately 6:30am and concluding approximately at 9:30pm, delivery vans will loaded and depart from the Delivery Station in group no larger than 30 vans and no more frequently than 30 minute intervals, such that approximately 500 delivery vans will depart the Delivery Station in a single 24 hour period.

After delivery routes are completed (approximately 7 to 9 hours after departures), drivers return the delivery vans to the station, once again in intervals similar to departure roll out. Operators secure their GPS devices and return products that may have been non-deliverable for storage. Vans are then returned to their parking location on site and drivers depart from the premises in personal vehicles or public transportation as applicable.

In addition to the use of delivery vans, AMZL also incorporates a FLEX model to store and deliver packages. AMZL anticipates approximately 50 traditional passenger vehicles entering the Delivery Station staggered between 11:30am and 2:30pm.

The Adopted Traffic and other Mitigations for the Warehouse Distribution Uses Cover Amazon's Uses

The January 2018 project approvals included adoption by the City of a Mitigated Negative Declaration (MND), which analyzed the impacts of an approximately 507,500 sf light industrial warehouse distribution building, comprised of up to 491,000 sf of industrial warehouse distribution space; up to 10,000 sf of office space, and approximately 6,500 sf of additional office space in the mezzanine.

The traffic generation from this proposed operation is generally consistent with the assumptions used in the traffic impact analysis completed by TJKM on August 18, 2017.

The modern warehouse and distribution uses proposed by Amazon squarely fall within the code definitions of warehouse and distribution under the City's pre-June 4, 2019 Industrial Ordinance. Under the vested Industrial ordinance governing the approvals of this project, we understand the following uses would be typical for a building of this type:

- Warehouse: A facility where goods are stored. Typically, items are stored and awaiting distribution to an off-site wholesale and/or retail facility. Does not include public storage facilities.



- Distribution: An establishment which distributes, stores and warehouses commodities and goods for the purposes of marketing or merchandising at wholesale or retail.

Request for Conformance Verification

We respectfully ask that the City provide its written response to this letter confirming that Amazon's proposed use and operations conform with the use designation of Warehouse or Distribution based on our vested pre-June 4, 2019 rules and policies. We are confident this warehouse distribution use will play a critical role in furthering the City's industrial modernization efforts.

We would be happy to discuss this request in person if that would be helpful.

Best Regards,

A handwritten signature in blue ink, appearing to read "Scott Recknor", with a long, sweeping underline.

Scott Recknor
Senior Managing Director
Black Creek Group

Cc: Paul Nguyen, City of Hayward
Sara Buizer, City of Hayward