



SUBJECT

Proposed Zoning Text Amendment to Article 1, Chapter 10, Section 10-1.1600 of the Hayward Municipal Code to include “Truck Terminals” as a Conditionally Permitted Use Within the IP (Industrial Park) District; and approval of a Conditional Use Permit to Establish a Last Mile Delivery Station for Amazon Logistics in an Approximately 507,500 Square Foot Industrial Building at 2701 W. Winton Avenue (APN 438-0030-019-00). Amazon.com Services, Inc. (Applicant); Black Creek Group (Property Owner). (Continued from March 11, 2021).

RECOMMENDATION

That the Planning Commission recommends the City Council approve the proposed Zoning Text Amendment and Conditional Use Permit, subject to the attached Findings (Attachment II) and Conditions of Approval (Attachment III); and approval of an Addendum (Attachment V) to the Mitigated Negative Declaration prepared pursuant to the California Environmental Quality Act.

SUMMARY

The proposed project would require a Zoning Text Amendment to Article 1, Chapter 10, Section 10-1.1600 to modify the allowed uses within the IP (Industrial Park) District to include “Truck Terminals,” which would allow for delivery of product to end users, as a conditionally permitted use; and the issuance of a Conditional Use Permit (CUP) to establish a last mile delivery station for Amazon Logistics at the subject site. The Amazon “last-mile delivery station” would operate 24 hours a day in the recently constructed, approximately 507,500 square foot light industrial building at 2701 W. Winton Blvd. Packages would be received, sorted and distributed to consumers in small delivery vans and by Amazon FLEX drivers throughout the region. All uses, including fleet parking, sorting and loading, would occur within the building, and there would be a small customer pick up area in the warehouse.

This item was continued from the Planning Commission meeting on March 11, 2021 to allow for staff and the applicant to meet and discuss conditions of approval related to intersections, bicycle facilities and roadways. Please see Background, Staff Analysis and Attachments VIII through XI for additional detail related to this topic.

BACKGROUND

On January 25, 2018, the Planning Commission¹ approved Vesting Tentative Map, Site Plan Review and a related Initial Study and Mitigated Negative Declaration (IS/MND), to merge 11

¹ January 25, 2018 Planning Commission Meeting. <https://hayward.legistar.com/LegislationDetail.aspx?ID=3317613&GUID=29D6732D-EB1C-4801-BE0B-6BB6300323C5&Options=&Search=>

parcels totaling 23-acres and to construct an approximately 507,500 square foot speculative industrial building at the subject site. Building permits were issued in September 2018, and the building was finalized in January 2021. Construction of the shell building totaled about \$85 million. Prior to this investment, the site had a history of general blight associated with illegal dumping and contamination related to the previous operation of a vehicle salvage yard.

On October 7, 2019, the Council Economic Development Committee (CEDC) considered a Preliminary Concept Review to establish the proposed last mile delivery station at the project site. At that meeting, the CEDC² asked about the quality and number of jobs at the facility and expressed concern about the increase in greenhouse gases associated with the proposed use and wear and tear on already degraded roadways in the vicinity of the project site. The CEDC directed staff to work with the applicant to ensure that job fairs and other economic and community-based investment would be targeted within Hayward; to install solar panels and to explore options for electrification of the fleet within a certain timeframe; to implement transportation demand management strategies for employees; and to negotiate a pavement maintenance agreement or similar mechanism be implemented to ensure that the use would pay its fair share toward roadway improvements and street maintenance since the use would not result in any point of sales tax revenue within the City.

On March 11, 2021, the applicant submitted a letter to the Planning Commission objecting to proposed conditions of approval 36-42 related to transportation-related fees on the grounds that they do not agree with the traffic study and City staff's assumptions related to the proposed use. Amazon provided a letter detailing their concerns and an alternative trip calculation based on a white paper entitled "Delivery Station California Trip Generation Study" (February 2021) prepared by NV5 (Attachment VIII). In their letter, Amazon provided a list of conditions with which were willing to comply, specifically related to intersection upgrades and striping for bicycle facilities in the vicinity of the project site. In response to Amazon's letter, the City's Public Works staff provided letters to the applicant dated February 28, 2021 and March 9, 2021, respectively, detailing staff's rationale for the proposed conditions of approval (Attachment IX). After receiving these late documents, the Planning Commission voted (5:2:0) to continue the item to the March 25, 2021 meeting to allow staff and the applicant an opportunity to meet and resolve issues related to conditions of approval. Following the Planning Commission meeting, the applicant and staff met twice to discuss the analysis and identified and corrected errors in the calculations. Each party proposed alternative analysis and offers; however, they did not come to a mutually agreeable solution. Additional discussion is included in the Staff Analysis section below.

Public Outreach. On January 8, 2020, an initial Notice of Application Receipt for the project application was sent to 285 addresses including property owners, tenants, and businesses within a 300-foot radius of the project site.

As of the date of this staff report, Planning Division staff was contacted by one member of the public representing a nearby business and who expressed concerns about traffic and queuing onto W. Winton Blvd. Conditions of approval prohibiting queuing and illegal parking along W. Winton Blvd and the requirement to maintain the frontage in a litter free manner address those specific concerns.

On or before March 1, 2021, a Notice of this Public Hearing for the Planning Commission meeting was sent to property owners, residents, and businesses within 300-feet of the project site as well as published in The Daily Review newspaper.

PROJECT DESCRIPTION

Existing Conditions. The proposed Text Amendment to allow Truck Terminals as a conditionally permitted use would apply to 739 parcels with the IP District zoning designation (or about 46% of the industrially zoned land in Hayward). There are three distinct areas zoned IP District within the City – one pocket is at the northwestern portion of the industrial crescent, another pocket runs along State Route 92 along the western edge of the City limits, and the third pocket sits at the southern edge of the City just west of the I-880 corridor where Hayward borders Union City². All of the properties zoned IP District have an *Industrial Technology and Innovation Corridor* General Plan land use designation.

The project site that is the subject of the proposed CUP is an approximately 23-acre site recently developed with an approximately 507,500 square foot light industrial shell building and related site improvements. As noted above, the building was recently finished however it has not been occupied. Surrounding land uses include large scale industrial business parks with a variety of industrial uses primarily within buildings along Winton Avenue and Cabot Boulevard to the north, south and east; and undeveloped Baylands and the Bay Trail to the west.

Proposed Project. The proposed project includes a Zoning Text Amendment to allow Truck Terminals throughout the IP District subject to approval of a CUP; and approval of a CUP for an Amazon last mile delivery station. Both are described in more detail below.

Zoning Text Amendment: Pursuant to Hayward Municipal Code Section 10-1.3510, Truck Terminals are defined as “*A facility which provides a transfer, loading and unloading point for trucks and automobiles carrying goods and products.*” Warehouse/Distribution Centers are defined as “*establishments primarily engaged in the sale, storage, and distribution of goods and materials in large quantity to retailers or other businesses for resale to individual or business customers. Activities may include physically assembling, sorting, and grading goods into large lots and breaking bulk for distribution in smaller lots.*”

Although the uses are similar, Truck Terminals operate differently than Warehouse/Distribution Centers in that goods are not stored and distributed in large quantities to retailers or other wholesalers and the primary use is not warehousing of large quantities of materials in that the packages generally arrive and leave the building within 24 hours. Truck terminals typically include UPS, FedEx and emerging uses like the Amazon last mile delivery station proposed with this application. Currently Truck Terminals are permitted in the IG (General Industrial) District, subject to CUP approval, and are not permitted in the IP District. Warehouse/Distribution Centers are permitted in all industrial sub-districts subject to size limitations.

² Hayward Webmap. <http://webmap.hayward-ca.gov/>

Conditional Use Permit: The proposed CUP would allow Amazon to install a last-mile-delivery station at the subject site. Delivery, sorting and van loading would occur within the building, with employee and customer parking outside of the building. The proposed plans are included as Attachment IV.

The proposed use would operate 24 hours a day, seven days a week with different uses and functions operating at different times throughout the 24-hour cycle. Amazon would have different operations during steady-state or typical timeframes and during seasonal fluctuations, which are defined as a week before Black Friday through December 31, and during two Prime Days in July.

Package Arrival, Sorting and Administration. During typical operations, up to 18 line haul tractor/trailer trucks would deliver packages to the subject site from various Amazon fulfillment centers throughout the region. Trucks are scheduled to arrive and depart twice within a 24-hour period – between 12 am and 11 am, and again between 4 pm and 11:30 pm. Trucks would pull into the building using the dock doors on the northeast portion of the site. Following delivery of packages, Amazon associates would sort the packages in shifts from 1:30 am to 12:30 pm and 1 pm to 10:30 pm. Amazon estimates that 104 employees would work during the first shift and 49 employees would work during the second shift.

During seasonal fluctuations, Amazon anticipates up to 39 line haul trucks. Three sorting shifts would occur in a 24-hour period with 168 employees working during the first shift, 50 employees working during the second shift and 140 employees working during the added overnight shift from 5 pm to 1:30 am.

Delivery Vans. Once the packages are sorted, third party delivery service providers (delivery vans) would load up and leave the site to deliver goods directly to consumers in shifts. Between 10:30 am and 12 pm, approximately 50 vans would depart every 30 minutes. Approximately 185 vans would depart/return to the delivery station in a 24-hour period during typical operations. During seasonal fluctuations, vans would leave the site in 30-minute intervals between 6:30 am to 12 pm, and Amazon estimates that 490 vans would leave the site in a 24-hour period. After drivers complete their route (estimated 7-9 hours after departure), they would return the vans and any undelivered goods to the delivery station. Employee parking areas would be shared for early and later shifts.

FLEX Drivers. In addition to delivery vans, Amazon will utilize FLEX drivers to deliver packages. FLEX drivers are contract workers that would deliver packages in their cars. FLEX drivers would enter the site after all delivery vans have departed (12 pm) and load up in the designated delivery van spaces. Amazon anticipates approximately 51 FLEX drivers would arrive and leave the site between 4 pm and 5 pm in staggered waves, similar to the delivery vans. Amazon does not anticipate a seasonal increase in FLEX drivers.

Customer Pickup. An approximately 250 square foot area within the building with a walk-up customer service counter as well as lockers will be devoted to customer pick up. A total of six parking stalls will be allocated to customer parking. Amazon does not anticipate a large number of customer pick-ups at the location due to its remote location.

Site and Building Modifications. The proposed project includes minor site and building modifications including removal of five dock doors on the west side of the building and installation of two new nine by ten-foot overhead door openings; installation of storefront glazing on the east side of the building; removal of ramps on the east and west sides of the building and installation of exterior stairs; construction of an employee lounge; and minor restriping of parking areas. There will be no modifications to the existing landscaping or stormwater control facilities on site.

Sustainability Plan. The building was finalized in January 2021, so it was constructed in accordance with updated efficiency and sustainability standards included in the applicable Building Code. Further, the applicant will install solar panels at the site, and Amazon is developing a timeframe for electrification of its delivery van fleet. See Staff Analysis for further discussion.

POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan. The project site is in an area designated as Industrial Technology and Innovation Corridor (IC) in the *Hayward 2040 General Plan*³. The Corridor is expected to grow as an economic and employment center and evolve to achieve a healthy balance of traditional manufacturing, warehousing and logistics as well as newer information- and technology-based uses. Allowable uses include professional offices, corporate campuses, research and development, warehousing and logistics, manufacturing, and biotechnology.

The proposed Zoning Text Amendment to allow truck terminals in the IP District and to allow the Amazon last mile delivery center at the specific location would support the following goals and policies of the *Hayward 2040 General Plan*:

- Land Use Goal 6. Enhance the Industrial Technology and Innovation Corridor to expand the economic and employment base of Hayward and to achieve a healthy balance between a manufacturing-based economy and an information- and technology-based economy.
- Economic Development Goal ED-1. Diversify the economic base of Hayward to support a robust and stable economy with a diverse range of employment, shopping, and cultural opportunities for local residents.

Further discussion of the consistency between the proposed use and policies are included in the Staff Analysis section below and in the Findings, Attachment II.

Zoning Ordinance. As noted in Project Description above, Truck Terminals are not currently permitted in the IP District. According to HMC Section 10-1.1602(B), the IP District designation applies to areas with larger parcels and existing or potential industrial park development intended for high technology, research and development and industrial activities in a campus-like environment. Warehousing and distribution are permitted provided in the IP District provided that the buildings are designed with an office appearance from adjacent right-of-way. Truck terminals are a type of warehouse and distribution use that

³ Hayward 2040 General Plan: <https://www.hayward2040generalplan.com/>

allows direct delivery to consumers. Therefore, truck terminals are not incompatible with the objectives of the IP District depending on site and building design. Additional discussion related to the Zoning Text Amendment and Conditional Use Permit findings is included in the Staff Analysis section below and contained in Attachment II, Findings.

STAFF ANALYSIS

Staff has reviewed the project application and believes that the Planning Commission can make the required Findings (Attachment II) to recommend City Council approval of the proposed Zoning Text Amendment and Conditional Use Permit for an Amazon last mile station, subject to Conditions of Approval (Attachment III).

The economy is evolving to allow for more direct-to-consumer delivery options, and the timeframes for ordering and receiving goods is shrinking which is more convenient for consumers. The added convenience of having goods delivered to one's home or business in increasing shorter time frames requires that a distributed network of these uses be established throughout the region. Further, the more distributed the network of these facilities, the less vehicle miles traveled between warehouses, last mile delivery stations where goods are sorted and the end user, which results in added safety, convenience and general welfare for the residents and businesses in Hayward.

Currently, Truck Terminals are permitted in the IG District which contains approximately 30% of Hayward's industrially zoned land. Expanding the use to be conditionally permitted in the IP District would allow expansion of the use into areas where larger campuses can accommodate the larger number of employees and in areas with close proximity to major arterials and freeways which is attractive to these businesses. Overall, staff believes that given the emerging technology and demand for direct-to-consumer deliveries and the potential for increased jobs at varying levels associated with these businesses, allowing the use subject to CUP review will benefit the City and will not erode the quality or standards of development within the IP District. Further, requiring CUP review and approval will ensure that sites are appropriate for the use and that any potential nuisances are managed through conditions of approval.

If the Zoning Text Amendment is approved, staff believes that the proposed site is appropriate for an Amazon last mile delivery station subject to the proposed conditions of approval. Specifically, the building is well designed with an office-like appearance from W. Winton Avenue, and all of the delivery, sorting and loading uses would occur within the building. All parking and queuing could occur on the site due to its large size and the proposed staggered flow of traffic through the site over each 24-hour period. Staff does recommend conditions of approval prohibiting parking and queuing onto W. Winton Avenue to ensure that the use, particularly during seasonal fluctuations does not become a nuisance (proposed Condition Nos. 12 and 13), and that Amazon commit to certain timeframe for electrification of the fleet and installation of solar panels to meet the City's sustainability goals (proposed Condition Nos. 11 and 18, respectively). Further, the applicant will be required to operate per the detailed business and operations plan provided with the application submittal and as detailed in this staff report. Any major deviation from this proposal, including a significant increase in van, FLEX or other types of deliveries may require amendment of the use permit (proposed

Condition No. 10). As conditioned, staff believes that the site is appropriately sized and designed to accommodate the proposed use.

Transportation Analysis & Proposed Conditions of Approval

As noted above, staff recommends various roadway and intersection improvements be included as conditions of approval to ensure that traffic continues to circulate safely and efficiently within the project vicinity (proposed Condition Nos. 36 through 40). The proposed conditions of approval are based on the metrics and analysis provided in the attached Local Transportation Analysis (Attachment X) and as outlined in the letters prepared by Public Works – Engineering staff dated February 28, 2021, March 9, and March 19, 2021 (Attachment IX).

In short, the Local Traffic Analysis prepared by Hexagon Transportation Consultant used rates established by the Institute of Transportation Engineers (ITE) available at the time the traffic analysis was being prepared to determine the number of trips associated with the proposed use and based on the gross square footage of the building. In addition, the LTA provides Existing Intersection, Freeways Segments and Roadways Levels of Service as well as Existing Plus Project Levels of Service based on the Project Trip Generation Estimates (Attachment X, Tables 4 through 10). Using the trip generation rates and existing and projected levels of service, staff developed a project contribution toward transportation improvements, installation of bicycle and pedestrian facilities and one-time and annual contributions to paving and maintenance (Attachment IX). Staff believes that the proposed conditions are fair and essential to maintain safe and efficient intersection and roadway conditions for the community at large.

Amazon disagrees with staff's use of the ITE Trip Generation Rates because they plan to use about 122,000 square feet of the 507,500 square foot warehouse for operations while the remainder of the building will be use as interior parking and loading areas for vans and other vehicles (Attachment VIII). They believe that a Distribution Center operates differently than a High-Cube Fulfillment Center Warehouse as described in the ITE. They provided a white paper entitled Delivery Station California Trip Generation Study prepared by their traffic consultant, NV5, to provide background for this claim. Based on this information, Amazon claims that they will only generate about 1,182 trips per day, 38 am peak hour trips and 68 pm peak hour trips in contrast to the City's estimate of 4,151 trips per day, 299 am peak hour trips and 695 pm peak hour trips as described in the LTA.

Engineering staff met with the applicant several times, reviewed the applicant's White Paper and concluded that the ITE Trip Generation Manual rate used, as described in the LTA, the City's March 9, 2021 letter and the March 17 letter from Hexagon Transportation Consultants (Attachments X, IX and XI, respectively), is appropriate to estimate the number of trips associated with the proposed use. ITE rates for this land use are, by definition, applied to gross floor area, as operational areas within the interior of buildings are not easily verifiable by the City and operational areas within the proposed project may potentially be modified or expanded in the future without additional staff review. Engineering staff further concluded that ITE rates used in the LTA are the industry standard; are the most defensible and verifiable source of information available about impacts related to uses; and are consistent

with traffic analysis prepared throughout Alameda County and in the City of Hayward; and consistent with the City's *Traffic Impact Analysis Guidelines*, General Plan and thresholds adopted by City Council on June 23, 2020. Further, Engineering staff believes that the proposed conditions of approval are essential to offset degradation to roadways and intersections related to the proposed use and to protect the City's infrastructure. In conclusion, Engineering staff recommends that the Planning Commission recommend approval of the conditions of approval as proposed.

ENVIRONMENTAL REVIEW

As described in the Background section above, the Planning Commission reviewed and approved an Initial Study, Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP) in conjunction with the approval of a planning entitlement to construct a new 507,500 square foot industrial building on the subject site. The proposed Zoning Text Amendment and Conditional Use Permit was not included in the adopted IS/MND and MMRP⁴.

Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162(b), if new information becomes available after adoption of a negative declaration, the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum or no further documentation. New CEQA analysis related to Vehicle Miles Traveled (VMT) found that the proposed project would not result in a significant impact in that the employer will implement Transportation Demand Management measures and ongoing monitoring and reporting as part of the project. Pursuant to CEQA Guidelines Section 15164, the City determined that an Addendum (Attachment V) is the appropriate level of review for the proposed project due to the fact that there has been no substantial change proposed in the project or the circumstances under which the project is being undertaken, nor is there any new information that would require additional environmental review.

The Addendum found that the vast majority of the mitigation measures included in the previously adopted MND and MMRP were implemented as part of the development of the industrial building. The remaining applicable mitigation measures include ongoing maintenance related to the Vegetation Management Plan, Stormwater Control Facilities and the levee, were included as conditions of approval and would be implemented through operation of the proposed use at the site.

NEXT STEPS

Following the Planning Commission hearing and recommendation, the item is tentatively scheduled for a public hearing at the April 27, 2021 City Council meeting.

⁴ January 25, 2018 Planning Commission Meeting. See Attachments VIII through X for IS/MND, MMRP and responses to comments on the CEQA analysis. <https://hayward.legistar.com/LegislationDetail.aspx?ID=3317613&GUID=29D6732D-EB1C-4801-BE0B-6BB6300323C5&Options=&Search=>

Prepared by: Leigha Schmidt, Acting Principal Planner

Approved by:



Jeremy Lochirco, Acting Planning Manager



Sara Buizer, AICP, Acting Deputy Development Services Director