



August 29, 2019

Black Creek Group
Attention: Scott Recknor
4675 MacArthur Court, Suite 625
Newport Beach, California 92660

Mr. Recknor,

The City is in receipt of your request for Zoning Verification Letter for 2701 West Winton Avenue in Hayward (APN 438-0030-019-00). Thank you for providing the detailed background on entitlements and your perspective on vested rights related to the previously applicable zoning regulations. City staff understands your position that you are entitled to exercise vested rights under the Vesting Tentative Parcel Map and California's common law vested rights law. However, after reviewing the proposed use description, City staff does not agree Amazon Logistics fits the criteria of a Warehouse and/or Distribution Facility. Rather, the Hayward Municipal Code contains a better fit definition for the proposed use as a Truck Terminal, as described in detail below.

Proposed Use

The Zoning Verification Letter dated August 15, 2019, provides the operational characteristics of the proposed tenant (Amazon Logistics), which are consistent with the characteristics verbally provided to City staff in the meeting with Amazon Logistics representatives on July 17, 2019.

Based on that description, City staff understands that goods would be delivered to the site on a daily basis via 15-line haul trucks. Following delivery, the packages would be sorted according to zip code and then loaded into approximately 500 Sprinter cargo vans. The vans would depart in waves of no more than 30 vans in 30-minute intervals to deliver packages to individual consumers throughout the region. In addition, Amazon Logistics anticipates utilizing a FLEX model that would involve passenger vehicles delivering such goods after the delivery vans depart the facility.

Zoning Ordinance Definitions Applicable to Proposed Use

As detailed in your Zoning Verification Letter, the previously adopted version of the Hayward Municipal Code (HMC) Section 10-1.3510, contained definitions for Warehouse or Distribution as follows:

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

Pursuant to the updated HMC Section 10-1.3510, which was adopted on June 4, 2019, the definition for Warehouse and Distribution Facility was updated to the following:

WAREHOUSE AND DISTRIBUTION FACILITY. 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. Does not include public storage facilities.

Based on the operational characteristics described in the letter and in the July 17, 2019 meeting with representatives from Amazon Logistics, Planning staff does not believe that the proposed use fits the criteria included in the previously adopted or the newly adopted definitions for Warehouse and Distribution Facility. Specifically, the goods are not distributed to wholesale or retail facilities, the goods are not stored and/or distributed in large quantities to retailers or other businesses, and the primary use is not warehousing of large quantities of materials in that the packages generally arrive and leave the facility within 24 hours.

Staff believes that the Truck Terminal definition better fits the proposed use. The definition for Truck Terminal did not change with the Industrial District Regulations Update.

TRUCK TERMINAL. A facility which provides a transfer, loading and unloading point for trucks and automobiles carrying goods and products. Typically includes fuel and food facilities.

Unlike the Warehouse and Distribution definition, Truck Terminal does not differentiate between quantities of materials and deliveries, nor does it specify the end recipients of deliveries whereas Warehouse and Distribution Facility specifies that materials are delivered to retailers, other businesses, and wholesalers. Therefore, City staff has determined the proposed operational characteristics of Amazon Logistics more closely match Truck Terminal than Warehouse and/or Distribution Facility.

Path Forward

A Truck Terminal was subject to Administrative Use Permit (AUP) approval under the previous Industrial District Regulations and is subject to a Conditional Use Permit (CUP) approval under the updated Industrial District Regulations. Black Creek Group did not apply for an AUP under the previous entitlements therefore a Truck Terminal use is not a vested use under the previous entitlements. To proceed with the proposed project Amazon Logistics would need to apply for and receive a CUP. A CUP is a discretionary application that typically takes four to six months to process and is subject to Planning Commission review and approval. I would be more than happy to meet with you to discuss the CUP submittal requirements and process.

Please contact me at 510-583-4113 or at leigha.schmidt@hayward-ca.gov if you have any questions or would like to meet.

Thank you,



Leigha Schmidt
Senior Planner
City of Hayward
777 B Street
Hayward, CA 94541

